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VOLUME III

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE, PETITIONER

vs.

CONNECTICUT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITION FOR CERTIORARI FILED MAY 12, 1960

CERTIORARI GRANTED JUNE 20, 1960

State of Connecticut

Supreme Court of Errors

HARTFORD COUNTY

OCTOBER TERM, 1958

4717

STATE OF CONNECTICUT

vs.

JOSEPH L. TABORSKY

and

ARTHUR CULOMBE

JOINT APPENDIX OF APPELLANTS AND APPELLEE

VOLUME 3 OF 3

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ROBERT RIEMER, having been previously sworn was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department, Officer? A. I am, sir.

Q. How long have you been a member of that department? A. Just over five years, sir.

Q. And in the course of your duties as a state police officer did you participate in an investigation concerning Joseph Taborsky that had to do with an affair in New Britain? A. I did, sir.

Q. When did you start that investigation?
A. I started working December 26th, sir.

Q. Were you also working on March 1st? A. I was, sir.

Q. And when did you start working on March 1st, concerning the New Britain affair? A. Approximately eight o'clock in the morning, sir.

Q. And did you also have something to do with Joseph Taborsky in the afternoon on March 1st?
A. I did, sir.

Q. And what time was that? A. I would say approximately five p.m. on Friday afternoon, March 1st.

Q. What did you do at that time as far as Taborsky is concerned? A. I accompanied Lieutenant Rome and Sergeant Paige to the Hartford County Jail.

Q. When you got to the jail what did you do?
A. Took Joseph Taborsky into our custody and brought him back to the State Police barracks.

Q. When you got to the State Police barracks where did you go? A. Up to the interrogation room in the Special Service Division.

Q. And who went to that room? A. I believe Sergeant Paige and I, and Joseph Taborsky, and Lieutenant Rome momentarily, and then he stepped out.

Q. Was there anyone else in the room when you arrived there? A. No, sir.

Q. What was your duty in connection with this matter at this time? A. Primarily a bodyguard, I believe, sir, or a guard of the prisoner.

Q. And did you stay with the prisoner while he was in the interrogation room? A. I did, sir.

Q. While you were in the interrogation room you said that Lieutenant Rome was there momentarily and left?
A. Yes, sir.

Q. And Sergeant Paige was there and you and the prisoner? A. Yes, sir.

Q. Now, did something occur there? A. Joseph was handcuffed with his hands in front of him and he sat on a chair and I sat alongside of him to the right side of him.

Q. Now, was there any discussion with Joseph Taborsky at that time concerning this investigation?
A. I don't believe I talked to anyone at all concerning the investigation.

Q. Was there a discussion at a later time with Joseph Taborsky, in your presence? A. There was, sir.

Q. And when did that discussion take place?
A. Mrs. Taborsky and Lieutenant Rome came into the room, and Sergeant Paige had just left to get a bite to eat.

Q. So you and Taborsky were there and Sergeant Paige had left? A. Yes.

Q. And Mrs. Taborsky was there? A. Was there.

Q. Were you in the room and did you observe what happened? A. Yes.

Q. Tell the Court and jury what happened when Mrs. Taborsky and Lieutenant Rome came into the room?

A. Mrs. Taborsky spoke to Joseph and asked him to tell the truth, that she still loved him, that she was still his mother and would remain his mother, or words to that effect. She also mentioned that Joseph Taborsky had been accused by the other fellow of killing all these fellows, and she wanted to know if that was true. Finally, Joseph admitted he was involved in this deed and that the other fellow had shot the proprietor of the gas station in New Britain and he had shot the customer.

Q. Can you give the conversation so far as Taborsky was concerned when he was talking to his mother? Can you recall any of the words he used? I am talking only about New Britain now. A. Yes, sir, he acknowledged he was involved.

Q. What did he say, if you know? A. I don't know word for word.

Q. You can't give it to us word for word? A. No, sir.

Q. How long did Mrs. Taborsky stay in the room?

A. I believe she was there about twenty minutes, sir.

Q. And you were present all the time she was there?

A. I was sir.

Q. And heard all the conversation that took place between Mrs. Taborsky and Joseph Taborsky? A. I did, sir.

Q. When Mrs. Taborsky left the room, what was the next thing that happened? A. Sergeant Paige, Captain Schwartz and Detective O'Brien came into the room.

Q. Did something happen when they came into the room? A. Yes, sir, Lieutenant Rome remained questioning Taborsky.

Q. And with respect to Sergeant O'Brien, what was he doing? A. He was taking notes, sir.

Q. Did you observe him taking notes? A. I saw him writing in a pad, yes, sir.

Q. When you say "taking notes", what do you mean? Can you explain that to the Court and jury? A. When Lieutenant Rome would ask Joseph Taborsky questions and Joseph would answer, Detective O'Brien would make notes of these questions.

Q. Writing down - making a record of the conversation - is that what you are saying? A. Yes, sir.

Q. I show you State's Exhibit DD in Case No. 21665 and I would like to have you read that to yourself and see whether or not it is familiar to you. With reference to the questions set forth in that exhibit, do you remember those questions? A. I do, sir.

Q. Who asked those questions? A. Lieutenant Samuel Rome.

Q. And in reference to the answers set forth in the exhibit, do you recall those answers? A. I do, sir.

Q. Who gave the answers? A. Joseph Taborsky.

Q. You didn't witness the signature on this paper, did you? A. No, sir.

Q. With reference to the questions and answers, are

those the questions and answers you said Detective O'Brien was making a record of? A: Yes, sir.

Q. And he was present in the room taking down this conversation? A. He was, sir.

Q. And did you observe him doing that? A. I did, sir.

Q. Now, was Joseph Taborsky handcuffed?
A. He was, sir.

Q. How was he handcuffed? A. His two hands were cuffed together in front of him in this manner (indicating).

Q. Was he handcuffed to you at any time? A. He was when he was brought upstairs, yes.

Q. When you were making the trip from the jail?
A. Yes.

Q. Was he handcuffed to any chair or furniture at that time? A. Not that night, no, sir.

Q. Not as far as you know? A. No, sir.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

CROSS EXAMINATION BY MR. BURKE:

Q. Officer Riemer, you say you saw Detective O'Brien taking some notes? A. Notes.

Q. You didn't know what he was taking, did you?
A. He was taking the conversation between Taborsky and -

Q. You don't know he was taking this conversation?
A. He was ordered to do so.

Q. But you don't know what he was writing?
A. No, sir.

Q. So when you say you know he was taking notes, you are confused, or you don't know? A. I am not confused.

Q. I am asking you if you know he was taking notes?
A. He was taking notes.

Q. You don't know what he was writing?
A. I don't know what he was writing.

Q. You don't know whether he was taking notes of the questions and the answers or what he was doing - I mean of your own knowledge? A. Of my own knowledge, no.

Q. You looked at the paper, State's Exhibit DD - when did you first see it? A. The other day, sir.

Q. You testified then you had never seen it before?
A. I had never seen it.

Q. You didn't recognize it, did you?

THE COURT: There are two questions pending there; Select the one you want answered.

Q. Did you recognize the paper when it was shown to you the last time? A. I hadn't seen the paper before that time, no, sir.

Q. Now you say, when Mr. LaBelle showed you this paper, these are the questions and answers you heard?
A. Yes, sir.

Q. And you want us to believe these are the exact questions that were asked and Taborsky's answers?
A. To the best of my recollection, they are, sir.

Q. And do you recall each question? A. As best I can from the time that elapsed.

Q. Do you recall this question "Did you stop' anywhere in New Britain - Answer Yes"? Do you recall that language? A. Similar language.

Q. That language? A. That language that is in the paper, yes, sir.

Q. And you recall that specifically? A. Yes, sir.

Q. And all these other questions here - you recall the language specifically? A. Not word for word, no, sir; I don't think anybody could.

Q. How do you recognize those are the questions and answers? A. Those are the line of questions.

Q. But these were not the words used? A. I can't say that.

Q. You don't know it? A. I assume they were.

Q. I am asking you if you know? A. To the best of my knowledge, yes, they are.

Q. Do you know if these are the questions Rome asked? A. If they are written down, they are the questions asked.

MR. BURKE: May I have the question read and may the answer go out?

THE COURT: Yes, the answer may go out and the question may be read.

(The Reporter read the question.)

THE COURT: Do you understand it?

THE WITNESS: Yes, sir.

THE COURT: And the answer?

THE WITNESS: Yes, sir.

Q. You remember them specifically, question by question? A. Question by question, no sir. That is the line of questioning.

Q. What you remember is that this was the tenor of the questioning? A. To put it that way, yes, sir.

Q. And you don't remember the questions, do you, or do you? A. I remember he said he shot a man, yes.

MR. BURKE: May that go out and the witness admonished not to offer answers of questions not asked?

THE COURT: Perhaps not in that language, but Officer, it would be helpful if you would answer the question asked only. Read the question.

(The Reporter read the question.)

A. Not word for word, no, sir.

Q. Do you recall the tenor of Rome's voice?
A. He was questioning the man, sir.

Q. Was it loud or soft? A. Normal.

Q. Pleading or demanding? A. Normal.

Q. Was it normal loud or normal soft? A. Normal.

THE COURT: We will have order in the courtroom.

Q. Just let me ask you this: You recall the tenor of the questions Rome was asking and the answers Taborsky gave? A. To the best of my recollection, yes.

Q. And when you looked at this paper, saw it for the first time, it immediately clicked in your mind that those were the questions and those were the answers; is that what you want us to believe? A. Yes.

MR. BURKE: I will leave it that way. That is all.

THE COURT: Anything further?

MR. McDONOUGH: No. In compliance with the request I made of Your Honor this morning, may we recess at this time until two o'clock?

THE COURT: As early as this?

MR. McDONOUGH: Yes, Your Honor please.

THE COURT: I take it there is no objection.

MR. BURKE: No objection.

MR. BILL: No objection.

THE COURT: The accused may be escorted from the courtroom.

Ladies and gentlemen of the jury, I am going to let you go for lunch at this time until two o'clock. There is a matter of business which must be taken care of. And the usual admonition: You will not talk to anyone about this case nor allow anyone to talk to you about it. If there is anything in any paper you may see, you will not read it, or any comment on radio or television. When you come back at two o'clock, report to the jury room and the alternates to your room. You may now be excused.

Recess, Sheriff, until 2:00 o'clock.

(Recess at 12:17 P.M.)

JUNE 19th, 2:00 P.M.

THE COURT: Bring up the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury, Sheriff?

(Jury and alternates present)

THE COURT: You may proceed when you are ready, Mr. Bill.

MR. BILL: Detective O'Brien.

THE COURT: Detective O'Brien recalled. You may sit down.

VINCENT J. O'BRIEN, having been presiously sworn was recalled and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department?
A. Yes, sir.

Q. And I think that you stated, I think also in front of the jury, that you are skilled in shorthand and typing?
A. Yes, sir.

Q. Whether or not on March 1st in the evening sometime, 1957, you were present during the investigation of the case of Joseph Taborsky? A. Yes, sir, I was.

Q. And where were you? A. At State Police Headquarters, in the Special Service Division.

Q. And about what time, do you know? A. About 6:30 P.M.

Q. When you entered the room who was there?
A. Joseph Taborsky, Officer Riemer, Lieutenant Rome, Sergeant Paige, Captain Schwartz and I.

Q. Now, what took place while you were there?
A. Taborsky was questioned by Lieutenant Rome.

Q. And ultimately did you take your notebook and take down in shorthand something? A. Yes, sir.

Q. And more particularly a statement in connection with the New Britain case? A. Yes, sir.

Q. Now, I hand you State's Exhibit E, for Identification, Taborsky, and what is that? Is that your notebook?
A. It is. It is my notebook and these are the shorthand notes that I took that night.

Q. Have you been over those notes recently?

A. Yes, here in court. I looked them over in court here, that's all.

Q. You say a statement was made that you took down that night on the New Britain case. In what manner was this statement taken, in narrative form or question and answer? A. In question and answer.

Q. Who did the questioning? A. Lieutenant Rome.

Q. And who did the answering?

A. Joseph Taborsky.

Q. Did you take it down word for word as the questions and answers were given? A. Yes, sir.

Q. And then later did you transcribe those notes into typewritten pages? A. Yes, sir.

Q. I show you State's Exhibit DD in the Taborsky case and ask you if you recognize those pages?

A. Yes, sir.

Q. As what? A. This is a transcript of the notes that I took on the evening of March 1st.

Q. And when were those notes transcribed, if you remember, into the form that they are there in that Exhibit DD? A. On Sunday, March 3rd.

Q. Sunday March 3rd? Now, after they were transcribed whether or not - what did you do with them?

A. I turned them over to Lieutenant Rome.

Q. And those are the questions and answers that were given that night? A. Yes, sir.

Q. And transcribed by you? A. Yes, sir.

Q. I take it that you were not there when this document was signed? A. No, sir, I was not.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Mr. Burke, any questions.

CROSS EXAMINATION BY MR. BURKE:

Q. Detective O'Brien, between the questions that Lieutenant Rome was asking was there any conversation at all between them? A. Between the questions?

Q. Yes. A. No, sir.

Q. Between one question and another? A. These were all the questions.

Q. The questions came one right after the other without any interrupting conversations at all? A. Not that I can recall.

Q. If there were any would you have taken it down in your book? A. So far as I know I took all of the conversation down.

Q. You would know, wouldn't you, if there was any and you didn't take it down? Did you take it all down, every word that was said? A. So far as I know, I did, yes, sir.

Q. Everything that was said by Rome is in the book?
A. So far as I know.

Q. What do you mean, so far as you know?
A. So far as I know every question that was asked by Lieutenant Rome and every answer given by Taborsky was recorded by me.

Q. I am talking about anything that was said by Rome, or anything that was said by Taborsky or anything else said by anybody else. Would you take notes of that.

MR. BILL: Objection.

MR. BURKE: Claim it, Your Honor.

THE COURT: I think that the question is objectionable in form. "Did he take them", might be permissible.

Q. Did you take them? A. No, sir.

Q. Were there any such conversations that you did not take? A. Not that I can recall, no, sir.

Q. You wouldn't say that there weren't any such conversations, would you? A. No, there was none that I can recall now, sir.

Q. And these transcriptions that you say are directly from your book? A. Yes, sir.

Q. You have got the book there, haven't you?
A. Yes, sir.

Q. I want you to turn a couple of pages. Let me pick out something.

THE COURT: And that book is Exhibit what, Mr. Burke?

MR. BURKE: Taborsky's Exhibit E.

THE COURT: I don't think it is, and that's what Mr. Bill calls it.

MR. BURKE: Defendant Taborsky's Exhibit 2.

Q. Will you read something from the second page and see if it conforms with this transcript? Right there where you are. A. "Did you stop anywhere in New Britain? Yes. Where? Gas station. For what purpose? To get some money. And this somebody drove - where did somebody park his car in the gas station? At the gas pump. What did you say, 'in the gas station'? Answer ' In the gas station'."

Q. Go ahead.

A. "At the gas pump. Headed toward Hartford or New Britain? Toward Hartford. What kind of gas? It is a different kind the kind, Flying arrow or Flying horse."

Q. Let's skip a couple of pages. Will you read from there? A. "Was the attendant obeying an order or coming in on his own? Obeying an order. Why was he obeying an order? He was being forced to with a gun. Someone who came to New Britain with you had a gun? Yes. What did this someone do? Made him go into a room with oil cans. What else was in that room? I don't know because I didn't go in."

Q. I think that's all right. Now, do you recall how Taborsky looked at that time? A. I think that I do, yes, sir.

Q. Are you under some difficulty remembering?
A. I didn't have much of an opportunity to observe him. I was writing in my book.

Q. Did you observe his mother, or weren't you there?
A. I wasn't there, no, sir.

Q. He was pretty well bedraggled and beaten down, wasn't he, when you saw him? A. No, sir, not in my opinion.

Q. He was cool and calm? A. Outwardly he seemed to be quite calm.

Q. What was your observation of his condition?
A. I didn't have much of an opportunity from the time that I started to write in the notebook. My attention was directed here at all times.

Q. The manner of his speech, was it hesitant and slow, or how? A. It was - as I recall it was low and a little bit slow, not fast.

MR. BURKE: I think that's all.

THE COURT: Anything further of this witness?

MR. BILL: No, Your Honor.

THE COURT: You may step down, Detective. Call your next witness.

MR. LaBELLE: Officer Fersch.

JOHN F. FERSCH, having been previously sworn was recalled by the State and testified as follows:

THE COURT: You may sit right down. For the jury, I think that he ought to give his name.

THE WITNESS: John F. Fersch.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department?
A. That is correct.

Q. How long have you been a member of that department? A. A bit over fifteen years.

Q. On March 2nd, were you on duty as State Police officer at State Police Headquarters? A. I was.

Q. What time were you on duty? A. From about six in the evening until about midnight.

MR. BURKE: Excuse me, Your Honor, but do I understand that he is leaving the Taborsky case and back on the Culombe case.

THE COURT: Is that correct?

MR. LaBELLE: That is correct, Your Honor.

THE COURT: Officer, may I call to your attention the fan in back of you and will you speak up so that the jury can all hear you?

THE WITNESS: I will.

THE COURT: Go ahead.

Q. What was your assigned duty on that evening?
A. I was assigned to guard Arthur Culombe while he

was incarcerated in a cell at State Police barracks in Hartford.

Q. And where were you with relation to the cellblock?
A. I was sitting immediately in front of the cell door.

Q. What time did you commence that duty?
A. I am sorry, I didn't hear you.

Q. What time did you commence that duty?
A. About six p.m. in the evening.

Q. How long did that duty continue? A. Until about midnight.

Q. Were any other persons present in the cell block other than you and Culombe? A. As far as I recall there was no one else present.

Q. Did you have any conversation with Culombe during that period? A. Yes, I did.

Q. Were you at that time conducting any investigation in so far as Culombe was concerned? A. I was not.

Q. When you went on duty did you have a conversation with Culombe when you first got there? A. When I first entered the cell block at about six p.m. I believe I said to Culombe "Hi, Art" or words to that effect.

Q. Was there any further conversation at that time?
A. No, sir.

Q. Now, was there a continuous conversation from that point on with Culombe and you? A. Yes, sir.

Q. What were you doing while you were on duty there? A. I was sitting in a chair and I was reading a book for the greater part of the time.

Q. Did something occur as you were sitting there in the corridor? A. Yes.

Q. Tell the Court what it was, what happened?

A. At about ten p.m. that evening Arthur Culombe addressed me and said that he wished to volunteer some information relative to the events that occurred at Kurp's gas station in New Britain on the night of December 15th, 1956.

Q. And when he spoke to you what did you do?
A. I talked to him about it.

Q. And do you recall any conversation that occurred between you and Culombe at that time? A. Yes.

Q. Can you relate that conversation to the Court and jury now? A. He said that on the early evening of December 15th, 1956, he and Joe Taborsky, riding in Culombe's 1949 Oldsmobile, drove to New Britain -

MR. BURKE: Your Honor please, may I object to the statements regarding Taborsky and ask Your Honor to admonish the jury not to consider them in the Taborsky case.

THE COURT: I will sustain the objection. I will again admonish the jury that anything that was said by Culombe or anyone else in the absence of Taborsky, and particularly this that Mr. Burke is objecting to, is not to be considered by you in the case of State vs. Joseph Taborsky at all, but only in the case of the State vs. Arthur Culombe. You may proceed, Officer.

A. When Culombe and Taborsky arrived in New Britain they drove up and down Stanley Street looking for a likely place to hold up. They finally stopped at a gas station on the lefthand side of the road as they proceeded toward New Britain and they decided to hold this gas station up. Culombe drove his car to the gas pump and when the attendant came out he requested of the attendant that his tank be filled with gas. While this procedure was going on Joe Taborsky asked the attendant where the men's room was, and after being so advised left the car and apparently went into the

station. After the tank was filled Culombe said that he went into the men's room, followed the attendant into the gas station and after he got in there he put his gun on the attendant and forced him into the boiler room where he shot him. After shooting him he turned the body over and took his wallet from the attendant's back pocket.

At about this time a customer drove up to the pump, whereupon Taborsky went out to the customer and ordered the customer into the gas station at the point of a gun. Taborsky then ordered the customer into the men's room, where he shot him. After this, Taborsky and Culombe looked around the station for money, rifled the cash register and then they proceeded to drive back toward Hartford. According to Culombe, enroute to Hartford Taborsky had his gun in his lap and he said to Culombe that if they were stopped he would kill anyone who tried to do it.

MR. BURKE: I object to that statement, Your Honor.

THE COURT: I will sustain it in so far as the case of State vs. Taborsky is concerned. I have already instructed you and I do again, that that statement is not, together with any others with reference to Taborsky, in the officer's testimony, is not to be considered by you in any way in the case of State vs. Joseph Taborsky, but it is admitted in the case of State vs. Arthur Culombe.

Q. Did that complete the conversation insofar as New Britain was concerned that you had with Culombe at that time? A. I then told Culombe that I would inform Lieutenant Rome of what he had just told me.

Q. Did you inform Lieutenant Rome? A. I did.

Q. When did you inform him? A. Within a very few minutes.

Q. Did anything further happen that night - I am now

talking about the New Britain matter? A. I can't hear you.

Q. Did anything further happen that night with reference to Culombe and the New Britain matter?

A. Not that I can recall.

Q. Were you present in the barracks the next day?

A. I was.

Q. And was Arthur Culombe present in the barracks?

A. He was.

Q. Tell the Court and jury what happened the next day insofar as you and Arthur Culombe were concerned?

A. The following morning, March 3, 1957, I was present in the interrogation room at the State Police barracks in Hartford when a statement was taken from Arthur Culombe relative to our conversation as of the night before by Lieutenant Rome.

Q. Who was present in the interrogation room?

A. Arthur Culombe, Lieutenant Rome, Officer Moran and myself.

Q. Was there a conversation with Culombe at that time? A. There was.

Q. Did it have reference to the conversation you had with Culombe the night before? A. It did.

Q. Tell the Court and jury what happened in the interrogation room with reference to what Culombe told you and Lieutenant Rome and Officer Moran? A. Well, Lieutenant Rome would ask Culombe a question and reframe the answer in his own words and then ask Culombe if the answer was correct, and if Culombe assented, Lieutenant Rome would nod to me and I would type down the information.

Q. And that is the method which you just outlined?

A. Yes.

Q. Who typed that statement? A. I did.

Q. I show you State's Exhibit EE for identification and ask you if you can identify that paper?

THE COURT: Is there too much breeze on the jury - do you want the fan turned off?

THE WITNESS: That is the statement Lieutenant Rome obtained from Arthur Culombe on March 3.

Q. Is that the paper you typed up? A. It is.

Q. By following the method you have just outlined? A. That is correct.

Q. Are there signatures on the back page of that paper? A. There are.

Q. Whose signatures appear there? A. The signature of Arthur Culombe, and the witnesses Samuel Rome, Officer Moran and myself.

Q. Did you see Arthur Culombe sign that paper? A. I did.

Q. Was the paper read to him before it was signed? A. It was.

Q. Who read it to him? A. Lieutenant Rome.

Q. Were you present when it was read to Culombe? A. I was.

Q. Insofar as his signature is concerned, when was the paper signed? A. Well, it was signed after Lieutenant Rome read it to him.

Q. Was that on March 3? A. That is correct.

Q. Right after it was typed? A. That is right.

MR. LaBELLE: You may inquire.

THE COURT: Mr. McDONOUGH:

CROSS EXAMINATION BY MR. McDONOUGH:

Q. May I see that? Was Culombe restless and nervous that night when you went to work at the cell block?
A. Yes, he was.

Q. Was he alone in the cell block that night?
A. I didn't hear the question.

Q. Was he alone that night in the cell block?
A. Yes, he was.

Q. In other words, there was no other prisoner with him in that block at that time? A. That is correct.

Q. How long had you been there, Officer, before Culombe spoke to you? A. About four hours.

Q. Had Culombe done any sleeping that night before he began to talk, to your knowledge? A. Not between six and ten P.M.

Q. Was he walking up and down in his cell?
A. He was.

Q. Did he start off the conversation with you by saying that his conscience was bothering him and he had something to tell you? A. Well, those weren't the exact words, but in effect, they were.

Q. In substance that was it? A. That is right.

Q. Did he tell you that Kurpiewski, the gasoline station attendant went into the boiler room with him, pushed in by Culombe? A. I am sorry - I didn't hear that.

Q. Did he tell you that he went into the boiler room with Kurpiewski, the attendant? A. Yes, he did.

Q. And then did he tell you that -

THE COURT: I was going to suggest that we follow the same procedure we did when we had the workmen here. Let the thunder go and start over again.

MR. McDONOUGH: I think the thunder will win, so I had better quit.

MR. BILL: The Sheriff can't do much about this, Your Honor.

THE COURT: Go ahead, and if we find we can't go on we will take a recess.

Q. He said he pushed the attendant into the boiler room, didn't he? A. Words to that effect.

Q. Words to that effect, and then didn't he say that the attendant seemed to come at him and he pushed him again and then the gun went off? A. That is right.

MR. McDONOUGH: That is all, thank you.

THE COURT: Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing from this witness, Your Honor.

* * * * *

LIEUTENANT SAMUEL ROME, previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. On Saturday night, March 2, did you receive a telephone call from Officer Fersch? A. Yes, sir, I did.

Q. Where were you? A. I was home.

Q. What time did you receive the call from him?
A. I think it was about ten-thirty P.M.

Q. And he related certain information to you?
A. He did.

Q. With respect to Arthur Culombe? A. Yes, sir.

Q. As a result of that information did you do something on March 3? A. Yes, sir.

Q. What did you do? A. I met Officer Fersch at the barracks the next day, March 3, and together we took a statement from Arthur Culombe.

Q. Where was that statement taken - where were you in the barracks - if you were in the barracks? A. Yes, sir - it was in the Headquarters building, the interrogation building of headquarters.

Q. Who was present when the statement was taken? A. Officer Fersch was typing it, Arthur Culombe and Officer Frederick Moran.

Q. How was this statement obtained - was it in narrative or question and answer form? A. It was narrative form.

Q. Tell the Court and jury how this statement was obtained and how it was prepared. A. I first asked Arthur Culombe if he wished to add anything to a previous statement made and he said he did, and he told me that he took the attendant into the boiler room at Kurp's gas station and told me the complete story, and then when we had paper in the typewriter ready to type this and put it into narrative form, I would ask Arthur Culombe what he did when he first arrived in New Britain and he would tell me. Occasionally I would change a word and repeat it to him and ask him if this is what he meant, and when he said yes to it, or nodded his head, I would nod to Officer Fersch, who would type this sentence and we continued that way until this second statement was taken.

Q. I show you State's Exhibit EE for identification and ask you to examine that exhibit. A. Yes, sir, it is.

Q. What is that paper? A. That is the additional statement taken by Officer Fersch and myself from Arthur Culombe on March 3 at State Police Headquarters.

Q. Is that the statement that was reduced to writing by Officer Fersch? A. Yes, sir.

Q. He typed it out? A. Yes, sir.

Q. And is that the statement that represents the questions and answers that were given and read to you - asked by you and answered by Culombe to you? A. Yes, sir, it is.

Q. And it was prepared in the manner you have described to the Court and jury? A. Yes, sir.

Q. Is there a signature on that paper? A. Yes, sir.

Q. Whose signatures appear on that paper?
A. It was signed, Arthur Culombe, witnessed, Samuel Rome, John Fersch, Frederick Moran.

Q. Were you present when Arthur Culombe signed it?
A. Yes, sir.

Q. When did he sign it? A. Almost immediately after I had read it to him.

Q. That is, after Officer Fersch had typed it?
A. After the typing was finished I read it to him and he said that was the statement, that was the story, and he signed it.

MR. LaBELLE: I offer it as an exhibit in the State versus Culombe.

THE COURT: Mr. McDonough, the exhibit has been offered.

MR. McDONOUGH: This comes under the rule Your Honor stated yesterday morning?

THE COURT: Yes, it does.

MR. McDONOUGH: There is no need of comment.

THE COURT: I will have it marked a full exhibit in the Culombe case.

(Additional statement of Culombe marked full State's Exhibit EE.)

* * * * *

"Additional Statement of Arthur Culombe

"I, Arthur Culombe, age 33, of 20 Coleman Drive, Hartford, Conn. give the following statement, without fear, threat or promise, knowing that this statement will be used against me in court.

"I was born in Fall River, Mass., on Feb. 28, 1924, the second oldest of five children born to my parents, Mr. and Mrs. George Culombe, now living in Fall River, Mass. I left grammar school while in the third grade.

"I have know Joseph Taborsky, who now lives on Hancock St., Brooklyn, New York, since 1951.

"One Saturday afternoon in December, 1956, Joseph Taborsky, came to my home at 20 Coleman Drive, Hartford. Joe knew that I had a collection of guns and he also knew that I had a 1949 Oldsmobile, color black. Joe and I went to the bedroom in my home, closed the door, and made plans to holdup some place and get some money.

"We went to Zion St. in Hartford, and from there we drove to New Britain. We arrived in New Britain roughly about 7:30 P.M. The roads were very slippery and bad. We rode on Stanley St., in New Britain looking for a place to holdup. While riding on Stanley St. toward the center of New Britain, we saw a gas station on the left-hand side of the road, that was lighted on the outside and we thought it looked like a good place to holdup. We rode past the station for a way, turned around and drove into the yard of the station and parked my car between the station and the pumps, headed toward Hartford. We sat in the car and the gas station attendant came out of the station and I told him to fill up my gas tank. It did not take much gas, he filled it up and I gave him two dollars. While he was filling my tank, Joe Taborsky

asked him where the men's room was and went inside the station. After he filled up my tank, I told him I was going to the men's room and walked inside the station. The attendant followed me in and just as soon as he got in to the door I put my gun on him. I told him that this was a stick-up and ordered him to put up his hands. He did not put up his hands, but when I told him to go into the boiler room, he did. I followed after him still pointing my gun at him. I told him to get into the right corner of this room and he did not seem to want to do what I told him, so I pushed him with my left hand. He hit the wall with his back, then he seemed to come at me and then I pushed him again and then the gun went off. I think the bullet hit him in the head, but I am not sure. He dropped to the floor in a sitting position. I lifted his body and took a wallet from his rear pocket. I left the boiler room and helped Joe Taborsky search for money. I pried open the cash register and took out the money. While we were searching, a car drove up and we both went outside. I made believe that I was the gas station attendant and asked the man how much gas he wanted. He said he wanted $2.00 worth. I reached for the gas hose and I saw Taborsky, who was standing close to the driver, order this man at gun-point, to get into the station. In this car, with the man, was a little boy about three years old. I went to my car to warm it up. Taborsky came over to the car very shortly and he said, "Let's get going", and I drove off. While we were riding toward Hartford, Joe had the revolver on his lap. Joe told me that if anybody tries to stop us, 'I'm going to shoot the son-of-a-bitch.' I don't remember if it was before this job or after this job that Joe told me that we should kill the people we holdup so that they could not identify us.

"We drove to my home in Hartford, where we divided the money. The total amount was about $125.00. I got half of that for my share. Joe gave me the wallet from his man after he had emptied it and told me to get rid of it

with the wallet I took from the man I had robbed. I don't know whether I threw the wallets in the rubbish in my yard or in a brook accross the way on Flatbush Ave. I put the revolver which Joe used on this case, which was mine, and also the gun that I had used in my safe. The following day I threw them in the swamp at the corner of Newfield and Dexter Sts.

"On February 27, 1957 I showed the State Police where I threw these guns, and the next day they showed me a .32 revolver foreign make. This revolver had plastic handles and one was cracked and I identified that gun as the one I gave Joe Taborsky when we went to New Britain and held up the gas station. This is the gun Taborsky told me he used when he shot the man in the toilet in the gas station.

"The above statement has been read to me and it is true.

"Signed. Arthur Culombe

"Witnessed: Samuel Rome, John Fersch, Frederick P. Moran."

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. This had to be read to Culombe, didn't it, Lieutenant because Culombe cannot read, can he? A. So he told me, Mr. McDonough, yes, sir.

Q. And he cannot write, except his name? That was your understanding? A. That's what I understand, yes, sir.

Q. So far as you know, that's the truth? A. That's the truth.

Q. That he cannot read or write? A. As far as I understand.

MR. McDONOUGH: That's all.

THE COURT: Anything further with this witness?

MR. McDONOUGH: One more question, please.

Q. Well, Culombe was still cooperating with the State Police to solve this crime, wasn't he? A. Yes, sir.

MR. McDONOUGH: That's all.

THE COURT: Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing further at this moment, Your Honor.

THE COURT: Step down, Lieutenant. Call your next witness.

MR. BILL: Captain Kelly.

JOSEPH B. KELLY, having been previously sworn was recalled by the State, and testified as follows:

THE COURT: Captain, you may sit right down. He has been sworn, too.

DIRECT EXAMINATION BY MR. BILL:

Q. You are of the New Britain Police Department? A. Yes, sir.

Q. And you testified here in the early days before the jury, did you not? A. Yes, sir.

Q. And I believe you testified that you were at this Kurp's gas station around about somewhere between six and six-thirty on December 15th, 1956? A. Yes, sir.

Q. Now, were you, sometime in March 1957, at the gas station while Joseph Taborsky was there? A. Yes, sir.

Q. Under what circumstances? A. I received a call that the state police would be there, Lieutenant Rome, with Taborsky, to reenact the crime that had been committed -

MR. BURKE: I object to this, Your Honor.

THE COURT: It may go out. The jury will disregard that testimony. Go ahead, Mr. Bill.

Q. What day was this that you were speaking of?
A. March 2nd.

Q. 1957. A. Yes, sir.

Q. And did you receive a call from somebody on the telephone? A. Police headquarters received the call, the sergeant at the desk.

Q. And as a result of that call where did you go?
A. I Went to Kurp's gas station, 1707 Stanley Street.

Q. And when you got there about what time was it?
A. About 1:35 p.m.

Q. Did you meet somebody there? A. Yes, sir.

Q. Whom did you meet? A. Lieutenant Rome, Detective O'Brien, Taborsky and several other state policemen.

Q. And did something take place there concerning Taborsky? A. Yes, sir.

Q. And what was it? Will you describe it?
A. Lieutenant Rome asked Taborsky a number of questions. Taborsky replied to all of his questions.

Q. Do you remember the questions? A. Yes, sir.

Q. And will you tell us? A. When I got there Lieutenant Rome was already questioning Taborsky. He asked Taborsky -

Q. Where were they? Inside or outside of the gas station? A. Inside the gas station.

Q. Where abouts in the gas station? A. The main portion, the office part of the gas station.

Q. You were there with them? A. Yes, sir.

Q. Will you continue with the conversation as you remember it? A. Lieutenant Rome was talking to Taborsky when I got there. He was asking about the man in the boiler room.

Q. Will you go on from there and say what you remember as you heard Lieutenant Rome talking and Taborsky talking, as best you can?

A. I heard Taborsky say that there were two shots. Lieutenant Rome then asked him if there was a car pulled into the yard. He stated yes. Lieutenant Rome asked him to point the location of the car that had pulled into the yard. He pointed to the south pump in the gas station yard. Lieutenant Rome asked him then what happened. He stated that he went out to the car and had the man come into the gas station. Lieutenant Rome asked him then what happened. He told him he took his wallet from him, took him into the men's room and shot him twice in the head. Lieutenant Rome asked him to indicate where he shot him, and he pointed to the left side of his head.

Q. What part of the head? A. Above the ear. The left side of the head. Lieutenant Rome asked him if there was anybody else in the car when he went out to it. He said there was a little child. He asked him was it a boy or a girl, He said it was a girl. Lieutenant Rome then asked him, he went into the men's room, when he came out he asked him if there was anything different about the gas station.

Q. What did he say to that? A. He said yes, that the desk that was now located near the men's room in the office had been in a different location, and he indicated that it had been toward the window, about midway in the office.

Q. Now, Captain, when you testified before I think that you testified that you were familiar with State's Exhibit I, and I show you that exhibit and ask you if you recognize that? A. I do.

Q. And when did you see it for the first time?
A. This photo, or -

Q. No, that situation as you see it in that photo.
A. At about 6:10 on December 15th, 1956.

Q. Now, what furniture are you speaking of now in your testimony that Taborsky was talking about?
A. I am speaking of the metal desk that is behind the row of tires on the west side of the office.

Q. What did you say the article of furniture was that you are speaking of? A. A metal desk.

Q. Will you show His Honor in that picture, the exhibit? And now will you go down in front of the jury and just go along and show them? (Witness shows exhibit to jury) And for the record that is the desk that appears in the righthand part of the picture, is that correct?
A. Yes, sir.

Q. Now, you were there, you say, when Taborsky was there on March 2nd, 1957? A. Yes, sir.

Q. And when you were there before where was that metal desk? A. The metal desk was along the candy machine, moved to the east side of the office.

Q. And you are now pointing to the east side? Will you show His Honor? By the candy machine? Now, will you show the jury?

(Witness shows exhibit to jury.)

Q. Now, was there anything else that was discussed? Any other article? A. Yes.

Q. What was it? A. There was a cash register on the metal desk, and he stated -

Q. Who did? A. Taborsky.

Q. Yes. A. Stated that that was in a different location on the night of December 15th.

Q. And when you were there on December 15th, where was the cash register? A. It was on a shelf on the east wall, about the center of the office.

Q. And when you were there and Taborsky was there on March 2nd, 1957, where was the cash register?
A. It was on the metal desk.

Q. In the position where you have just described the metal desk had been removed to? A. Yes, sir.

Q. Was anything else said at that time by Taborsky, or by others in his presence, that you remember?

THE COURT: About the New Britain incident?

Q. That's right. That's all I care about.
A. He mentioned the other fellow in answer to a question by Lieutenant Rome.

Q. Anything else? A. That's about all that I can recall.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Mr. Burke.

CROSS EXAMINATION BY MR. BURKE:

Q. When Taborsky was answering these questions, Rome was asking them? A. Yes, sir.

Q. Rome was telling him, wasn't he, and getting a "yes" and "no" answer? A. No, sir.

Q. Well, how would he ask the questions, Captain?
A. He asked the direct question.

Q. Well, he didn't ask where was the cash register, did he? A. He asked a general question at the time when

he was near the conclusion of the questioning, as "Did he notice anything different about the station"? And in answer to that Taborsky gave those -

Q. Both instances? A. Yes, sir.

Q. That was in answer to that general question? A. Yes, sir.

Q. You were there and heard this? A. Sir?

Q. You were there? A. Yes, sir.

Q. You heard it? A. Yes, sir.

Q. Did you ever get an order from a court in New Britain?

MR. BILL: Objection.

THE COURT: I will sustain it.

MR. BURKE: That's all, Your Honor.

THE COURT: Is there anything further?

MR. BILL: That's all.

THE COURT: You may step down, Captain.

MR. BILL: Paul Dubrosky.

PAUL DUBROSKY, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Paul Casper Dubrosky.

Q. Your address? A. 30 New Britain Avenue, Unionville.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed by the Farmington Construction Company? A. Yes, sir.

THE COURT: Unless counsel have some objection I would like to tell the jury that their quarters are being dried. I have had an inspection made and the clothing is all right. We are cleaning up the floor. Go right ahead, Mr. Bill.

Q. You say that you are employed by the Farmington Construction Company? A. Yes, sir.

Q. And where is that located, the company?
A. New Britain Avenue, in Farmington.

Q. And on Thursday February 28th, were you employed by that company? A. Yes, sir.

Q. Speak up so that everybody can hear.
A. Yes, sir.

Q. It is a little hard to hear on account of the storm, but will you speak loudly so they can hear away back here to the last man in the jury box.

Q. Where were you employed by this company that day? A. Right here in Hartford at -

Q. The name of the streets, if you remember?
A. Deerfield and some other street.

MR. BILL: I will establish that later, Your Honor.

THE COURT: All right.

Q. What were you doing? A. We were out in the swamp, over in the marsh, with a potato hook.

Q. Did you have a potato hook? A. Yes, sir.

Q. And how many other men were working alongside of you? A. Eight or nine of us.

Q. And were you hunting for anything in particular?
A. Yes, sir.

Q. What? A. Two pistols.

Q. Two pistols? And during your work did you have any success? A. Yes, sir.

Q. You personally? A. Yes, sir.

Q. What happened? A. I hooked into a pistol.

Q. With your potato hook? A. That's right.

Q. And as you did that, what did you do, or did somebody else do? A. I handed it to the officer right next to me.

Q. Do you know the officer's name? A. No, sir.

Q. Have you learned it since? A. I'd know him if I see him.

Q. Is the officer here.

MR. LaBELLE: Officer Hickey.

Q. Officer Hickey, is that the man? A. Yes, sir.

THE COURT: For the record, what is his name?

MR. BILL: Officer William Hickey.

Q. Do I understand that he was right there when you hooked this pistol? A. That's right.

Q. And he took it from you, is that it? A. Yes, sir.

MR. BILL: Captain Chameroy, this isn't loaded, Captain?

THE COURT: That may be humorous, but has it been -

MR. BILL: No, I mean that, Your Honor.

THE COURT: I do, too.

MR. BILL: I do it in every case.

THE COURT: I concur.

MR. BILL: All clean?

CAPTAIN CHAMEROY: Yes, sir

Q. Now, Mr. Dubrosky, I show you this pistol and I don't ask you if that is the one, but does it look like it? A. Yes, sir.

Q. It does? As the one that you fished up with the potato hook and turned it over to Officer Hickey, is that correct? A. That is right.

MR. BILL: May I have that marked for identification, Your Honor?

THE COURT: In which case?

MR. BILL: Culombe, for now.

THE COURT: All right, may be marked MM in case No. 21666 for identification.

(Pistol marked "State's Exhibit MM for Identification, case No. 21666.")

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Call your next witness.

WILLIAM HICKEY, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. William Hickey.

Q. Your address? A. 109 West Euclid Street, Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed on the State Police Force? A. That's right, sir.

Q. For how long? A. Ten years.

Q. Whether or not on February 28, 1957 you were on duty at some place? A. Yes.

Q. Where were you? A. At the intersection of Newfjeld and Dexter Streets in Hartford.

Q. And while you were there did something happen that came to your attention? A. Yes, sir, a group of men from the Farmington Construction Company were searching a swampy area, and one of them uncovered a gun which I took from him.

Q. Can you name the man in this matter you took the gun from? A. Paul Dubrosky.

Q. He just preceded you on the witness stand?
A. That's right, sir.

Q. What did you do when you had taken the gun from him? A. I took the gun and went across the street to a large building and washed the mud off and I took it to the police station where Officer John Fersch was and he produced a rag and wiped the gun clean and kept possession of it.

Q. I show you State's Exhibit MM in the Culombe case - for identification - and ask you if you recognize that pistol - I don't mean as the pistol itself - but do you recognize it? A. Yes, sir, I do.

Q. And you identify it as a pistol of that type and nature? A. I do.

MR. BILL: Your witness.

THE COURT: Mr. McDonough?

MR. McDONOUGH: No questions.

(witness excused)

THE COURT: Call your next witness.

OFFICER JOHN FERSCH, previously sworn, recalled by the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Were you on duty as a State Policeman on February 28, 1957? A. I was.

Q. Whereabouts? A. I was at the intersection of Newfield and Dexter Streets in Hartford.

Q. Did something happen there while you were there? A. Yes, it did.

Q. What was it? A. At 1:35 P.M. Mr. Paul Dubrosky, who was using a sort of grappling or clam hook in the vicinity of that intersection found a gun in the swamp.

Q. Did you see him find the gun? A. Yes, sir.

Q. What happened to the gun as far as you were concerned? A. Officer Hickey took the gun off the rack and cleaned the mud off it and turned it over to me, and I kept it in my possession until Lieutenant Rome arrived at the scene.

Q. You stayed on the premises, did you? A. Yes, sir, I did.

Q. Showing you State's Exhibit MM for identification, can you identify that gun? A. Yes, I can.

Q. As what? A. This is the gun found by Paul Dubrosky on February 28 at 1:35 P.M.

Q. And you took possession of it? A. Yes.

Q. From Officer Hickey? A. Yes, sir.

Q. And you kept it for a time and then what did you do with it? A. Gave it to Lieutenant Rome.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

(witness excused)

RICHARD BALAZY, a witness on behalf of the State, being first duly sworn by Mr. Coburn testified as follows:

BY MR. COBURN:

Q. Your full name? A. Richard Balazy.

Q. Your address? A. 25 Main Street, Farmington.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Balazy?
A. I am a contractor, sir. .

Q. Are you employed by someone? A. No, I am a partner in the Farmington Construction Company.

Q. You are a partner? A. Yes, sir.

Q. Was your company employed by the State Police Department to do a certain job on or about March 2?
A. Yes, sir.

Q. Were they also employed on February 28?
A. Yes, sir.

Q. And what was the job you were employed to do?
A. We were employed to search for weapons and wallets in the vicinity of Dexter and Newfield Streets in the City of Hartford and also at Coleman Drive.

Q. With reference to Newfield and Dexter Streets in Hartford, were you present on February 28 when some of this work was commenced? A. Yes, sir.

Q. Were you present when Paul Dubrosky was working there? A. Yes, sir.

Q. Were you present when something was found by Mr. Dubrosky? A. Yes, sir.

Q. And what was found by him? A. A revolver was found by Mr. Dubrosky.

Q. How did he find it? A. He found it with a potato hook.

Q. Were you present when it was found with the hook? A. Yes.

Q. I show you State's Exhibit MM for identification and ask you if you can identify or recognize that exhibit? A. Very definitely.

Q. What is that? A. That is the gun Paul fished out of the swamp at the corner of Dexter and Newfield Streets.

Q. Now, on March 4 was your company still employed at that location? A. Yes, sir.

Q. And on March 4 what was the operation your company was performing? A. We were still in the search for another weapon. We were told there were two weapons. We found one and we were searching for another one.

Q. On March 4 what kind of equipment was being employed? A. An electromagnet was being employed on the end of a crane boom.

Q. And what is an electromagnet? A. It is a heavy piece of steel that is electrified by a generator which consists of magnetic action which picks up metals that are attracted by magnetism primarily used by people in the junk business to pick up metal material that is attracted by magnetism and is dumped into trucks or railroad cars or what have you.

Q. On March 4 did something happen in this operation? A. Yes, sir.

Q. What happened? A. We found a nickel revolver.

Q. Tell the Court and jury how it was found.

A. The second revolver was found by using this electromagnet at the end of a crane boom sweeping across the swamp area from one side to the other, and when the

magnet was at one extreme or the other of the swamp, it would be raised and inspected manually to see if there was anything on the bottom of the magnet.

Q. Did you find something on this magnet that pertained to your job there? A. Yes, we found the revolver.

MR. LaBELLE: Captain Chameroy?

Q. This one we don't have to worry about. I show you this article in front of you, and ask you if you can identify that? A. Yes, sir, that is the revolver that was taken off the magnet at the corner of Dexter and Newfield Street.

Q. Were you present when that revolver was picked up by the magnet? A. Yes, sir.

Q. Did you have something to do with the magnet at the time? A. Nothing to do with the magnet.

Q. Did you have anything to do with this after? A. Yes, sir, I took it off the magnet.

Q. And after you took it off the magnet what did you do with that exhibit? A. I handed it to a police officer. I am trying to think of his name, and I think his name was Officer French.

MR. LaBELLE: Will you stand up, Officer French?

Q. Is that the officer you gave it to? A. I think so, yes, sir.

MR. LaBELLE: May I have this marked for identification?

THE COURT: Yes, in the Culombe case - NN for identification - Case No. 21666.

(Part of revolver marked State's Exhibit NN for identification)

Q. Showing you State's Exhibit N for identification,

Mr. Balazy, was that gun approzimately in the same condition when you found it as it is now? A. It is in exactly the same condition.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

(witness excused.)

WARREN A. FRENCH, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Warren A. French.

Q. Your address? A. 293 Alden Street, A - Fairfield.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a State Police officer? A. I am attached to the Special Services Division.

Q. How long have you been connected with the State Police Department? A. As a policeman over 17 years, and detective about three years.

Q. From March 4 - or on March 4 were you on duty in Hartford? A. I was.

Q. Where was that duty being performed?

A. At the intersection of Dexter and Newfield Streets in Hartford.

Q. What was the duty you were assigned to at that location at that time? A. I was supervising a search by an electromagnetic crane for the second weapon in a swamp at that location.

Q. Was that weapon found? A. It was.

Q. Were you present when it was found? A. I was.

Q. How was it found? A. It was swept up by this magnetic crane.

Q. Were you present when the magnetic crane picked up the weapon? A. I was.

Q. What happened to it when the magnetic crane picked up the weapon? A. The former witness took it from the crane, washed it off and handed it to me.

Q. I show you State's Exhibit NN for identification which is in front of you and ask you if you can identify that? A. This looks like the same gun that was handed to me.

Q. That looks like the same gun that was on the magnetic crane? A. Yes, sir.

Q. And that Mr. Balazy handed to you? A. That's right.

Q. What did you do with that gun? A. I kept it in my possession and notified headquarters by radio we had recovered it and turned it over to Lieutenant Rome about twenty minutes later.

MR. LaBELLE: No questions, Mr. McDonough?

MR. McDONOUGH: No questions.

THE COURT: Call your next witness.

(witness excused)

LIEUTENANT SAMUEL ROME, previously sworn, recalled as a State's witness.

DIRECT EXAMINATION BY MR. LABELLE:

Q. Showing you State's Exhibit MM for identification, Lieutenant, I ask you if you recognize that? A. I recognize the gun I am looking at, but I am looking for a mark I put on it. Oh, yes, yes, I do.

Q. What is it? A. This is a gun that was recovered from the swamp at the corner of Newfield and Dexter Street on February 28 and turned over to me by Officer Fersch, and at that same time identified by Arthur Culombe as the gun that he loaned to Joseph Taborsky.

MR. BURKE: I object to this, Your Honor.

THE COURT: You mean insofar as the Taborsky case is concerned?

MR. BURKE: Yes.

THE COURT: I will sustain the objection and the jury is instructed to disregard anything said by Culombe in reference to whatever it is testified he said, and you will disregard it entirely as to the Taborsky case, and it is admissible in the case of State versus, Culombe.

MR. LABELLE: May I withdraw the question at this point?

Q. When the gun was turned over to you by Officer Fersch, what did you do with it? A. Took it in my possession and the same day turned it over to Captain Chameroy after putting my initials on it.

Q. Are your initials on that gun now? A. Yes, sir, they are.

Q. Did you at sometime show this gun to Culombe? A. Yes, sir. Immediately after it was turned over to me I showed it to Culombe.

Q. I show you State's Exhibit NN for identification, and ask you if you can identify that? A. Yes, sir, this is part of a gun that was turned over to me by Detective Fersch on March 4 at the scene where it was located, and the one that I turned over to Captain Chameroy the same day.

MR. LABELLE: You may inquire.

THE COURT: Mr. McDonough?

MR. McDONOUGH: No questions.

THE COURT: You may step down. Call you next witness.

FRANK V. CHAMEROY, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Frank V. Chameroy.

Q. Address? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department? A. Yes, sir, I am.

Q. What is the nature of your work with the State Police Department? First off, what is your title? A. Captain.

Q. What are your duties? A. I am in charge of the State Bureau of Identification and Laboratory.

Q. How long have you been in charge of that bureau and laboratory? A. Twenty two years.

Q. And that has to do with ballistics, firearms and identification, such as finger prints, and so forth? A. Yes, sir.

Q. Is that what you specialize in? A. Yes, sir.

Q. And you have over the years? A. Yes, sir.

Q. And you have testified, have you not, Captain, in many many cases in the Superior Courts around the state here? A. Yes, sir, I have.

Q. I sho[illegible] you the three articles Lieutenant Rome found at Culo[illegible]e's house, marked State's Exhibit GG for identification - contained in that envelope, and ask you if you recognize those? A. Yes, sir, I do.

Q. And there are three articles. Do they have something to do with firearms? A. They are parts of a revolver.

Q. Can you designate the names of those three articles? A. Yes, I can.

Q. And what are they? A. One of the items is a main spring for a revolver. Another of the items is the cylinder retaining rod for a revolver, and there is a pair of revolver grips with the grip screw.

Q. Where did you get these from? A. They were given to me by Lieutenant Rome.

Q. Do you know when? A. On March 4, 1957.

Q. And when you received them from Lieutenant Rome, what did you do with them? A. I kept them in my possession.

Q. Have you had them in your possession since then? A. With the exception of one day.

Q. What day was that? A. That was on March 11.

Q. What happened then? A. I sent them to Worcester, Massachusetts in the custody of Sergeant Walter Perkins of the Laboratory staff.

Q. Were they returned to you by him? A. Yes, sir.

Q. Can you identify those as the articles you took from Lieutenant Rome that day? A. Yes, sir, I can.

MR. BILL: I offer them in evidence.

THE COURT: Any objection?

MR. McDONOUGH: No objection.

THE COURT: Mr. Burke?

MR. BILL: This is on the Culombe case.

THE COURT: Then you don't need to answer. It may be marked a full exhibit - State's Exhibit GG.

(Envelope containing gun parts marked State's Exhibit GG).

THE COURT: We will stop here, Mr. Bill.

The accused may be escorted from the courtroom.

Sheriff, may I have a report on the jury condition? Are they comfortable?

SHERIFF JULIANO: Yes, they are, Your Honor.

THE COURT: If you find they are not, let me know. The jury may return to their room and the alternates to their room.

Short recess, Sheriff.

(Recess at 3:30 P.M.)

JUNE 19th, 1957. 3:50 P.M.

THE COURT: Will you bring up the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury?

(Jury and alternates present)

THE COURT: You may proceed when you are ready, Mr. Bill.

FRANK V. CHAMEROY, on the witness stand.

DIRECT EXAMINATION BY MR. BILL: (Resumed)

Q. Captain, showing you State's Exhibit NN, in case No. 21,666, for identification, can you identify that?

A. Yes, sir, I can.

Q. As what? A. As a .32 calibre Harrington-Richardson, Young American revolver.

Q. Is it complete? A. It is not.

Q. What is missing to make it a complete revolver?

A. The hammer screw is missing, the cylinder is missing, the cylinder rod - that's the bearing rod that the cylinder revolves on - is missing, the main spring is missing, and the grips are missing.

Q. When you say "grips" what do you mean?

A. They are the - if you want to call them handles, for another word, the handles or grips.

Q. The grips on the handles? A. Yes, sir.

Q. To a layman it might mean the grips on the handles? A. Yes.

Q. Have you had that pistol in your possession for some time? A. I have, yes, sir.

Q. And where did you get it from? A. I received it from Lieutenant Samuel Rome.

Q. When? A. On March 4th.

Q. And have you had that in your possession since that time? A. I have, with the exception of that one day.

Q. What about that one day? A. That one day it was taken to the Harrington-Richardson Arms Factory in Worcester, Massachusetts by Detective Sergeant Walter Perkins, who is connected with the laboratory staff at State Police Headquarters.

Q. Have you your own markings on there for identification so that you can identify that as the pistol that was

turned over by Lieutenant Rome to you? A. Yes, sir, I have.

Q. And will you refer to those markings? A. "F.C."

Q. Do you find it there? A. Yes, sir, I do.

Q. And what does that stand for? A. My initials.

Q. Did you put them in there when you received it? A. When I received it, yes, sir.

Q. And what does that indicate to you? A. It indicates that it was the same revolver that was turned over to me by Samuel Rome, Lieutenant Rome.

MR. BILL: I offer that as a full exhibit.

MR. McDONOUGH: Just a moment. No objection.

THE COURT: May be marked a full exhibit NN in case No. 21,666.

(Harrington-Richardson revolver received in evidence and marked "State's Exhibit NN" in Case No. 21,666.)

Q. Now, showing you State's Exhibit MM in case No. 21,666, Culombe, for identification, do you recognize that pistol, Captain? A. Yes, sir, I do.

Q. As what? A. It is a .32 calibre Russian Nagant revolver used by the Russian military as a side arm.

Q. Have you had this in your possession? A. I have.

Q. And where did you receive it and from whom? A. I received it at State Police Headquarters from Lieutenant Samuel Rome, on February 28th.

Q. Have you kept it in your possession ever since? A. Yes, sir, I have.

MR. BILL: I offer that.

MR. McDONOUGH: You claim that it belongs to a mad Russian?

MR. BILL: That will come out later.

MR. McDONOUGH: Culombe? No objection.

THE COURT: May be marked full exhibit MM in No. 21,666.

(Russian Nagant revolver received in evidence and marked "State's Exhibit MM, Case No. 21,666").

Q. Now, referring to State's Exhibit NN which is the smaller revolver that you have identified, and State's GG, which are these three articles from a revolver that you described, in your examination of these two exhibits do you find any relation or connection between them? A. Yes, sir, I did.

Q. And what is it? First off, did you determine your opinion the make of this revolver? A. Yes, sir, I did.

Q. And what was it? A. It is a Harrington and Richardson .32 calibre revolver, Young American model.

Q. Where is that made and has been for some time? A. Worcester, Massachusetts.

Q. And is that factory still running? Are they still manufacturing? A. Yes, sir, it is still in existence.

Q. You said that you found some relation or connection between these three objects in State's Exhibit GG and this revolver, State's Exhibit NN. Will you explain what it was? A. I found that the parts in State's Exhibit GG, namely the revolver grips, the cylinder rod and the main spring, all fit this revolver.

Q. Is that unusual? A. Well, they were made to fit that particular model.

Q. You determined that? A. Yes, sir.

Q. And did you, yourself, in an experiment, fit those parts to this revolver? A. I did.

Q. And how did they fit? A. They fit very well.

Q. Now, do you find something else that showed a connection between the revolver and some of the parts here? A. I did.

Q. And you are now looking at what? A. I am looking at the pair of revolver grips in State's Exhibit GG.

Q. And are you about to point out something that you discovered in those grips, or one of them? A. Yes, sir I am.

Q. And what is it? A. On the inside of both of the grips I find a four digit number, and it is 5755.

Q. And in what manner do you find it on there?
A. A scratch mark on there.

Q. Now, referring to the pistol itself, Exhibit NN, do you find anything there? A. Yes, sir, I do.

Q. What? A. On State's Exhibit NN, the .32 calibre Harrington Richardson, Young American revolver, I find a four digit number stamp on the frame, and that is 5755.

Q. That is the same number that you read from the scratch numbers of the grips, is that correct? A. Yes, sir, it is.

Q. And as a result of your findings what did you do in relation to the grips and the pistol? A. That is when I had the grips and the revolver taken to the Harrington-Richardson factory in Worcester, Massachusetts, on March 11th, by Detective Sergeant Walter Perkins.

Q. And as a result of that we have a witness, Mr. Stanhope, here from that factory, is that correct?

A. Yes, sir, we have.

MR. BILL: Your witness. Your Honor, I was wondering, perhaps if Mr. McDonough knew our situation, we have a man here from Worcester, who has been ill with a heart condition, and he hasn't been away from home for many, many years, and he did consent to come down here and he is here now, and I had hope we could finish with him by putting him on and perhaps delay the cross-examination of Mr.McDonough.

MR. McDONOUGH: Yes, I will be glad to.

MR. BILL: Until after he testifies.

MR. McDONOUGH: I will be glad to.

MR. BILL: I would be very thankful to you if you would.

MR. McDONOUGH: Yes, sir.

MR. BILL: I appreciate it.

THE COURT: You may withdraw for the moment, Captain.

MR. LaBELLE: Mr. Stanhope.

GEORGE STANHOPE, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY ASSISTANT CLERK:

Q. Your full name? A. George Stanhope.

Q. Address? A. Beverly Hill Drive, Shrewsbury, Massachusetts.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Mr. Stanhope, by whom are you employed?

A. Harrington & Richardson, Incorporated, Worcester, Massachusetts.

Q. And what kind of a company is that?
A. Firearms exclusively until two years ago.

Q. And how long has that company been making firearms? A. I believe about 1876, 1877.

Q. And has your family been connected with that company? A. What's that?

Q. Has your family been connected with that company in any way? A. Three brothers and my father.

Q. How long have you worked for this company?
A. For about forty and a half years.

Q. And in your capacity what were you doing for the company when you were employed by them? A. I have been in most of the positions, started in as assembler on revolvers.

Q. Did you work up all through the factory process?
A. Through tool making to superintendent, now a process engineer.

Q. You are now a process engineer with this company? A. That's right.

Q. In your forty-one years with the company have you been working with revolvers? A. Not for the last five years, but up until that time, yes.

Q. And tell the Court and jury your experience in the company with reference to the manufacture of revolvers? A. In what respect, please?

Q. In your employment with this company, what was your experience in manufacture and assembling of revolvers? A. I was on the final assembly. We had two assemblies, a rough assembly and a final assembly. Not inter-

changeable guns. Each gun had to be fitted and I was on the final assembly.

Q. And you were connected with the final assembly of these guns over thirty-five years? A. No, not the whole thirty-five. I started with the assembly.

Q. How long did you work with the assembly?
A. About eight or nine months in assembly.

Q. Then what did you do? A. Then went right into the tool room, tool making, making the tools that make the guns.

Q. How long did you stay in that department?
A. Nineteen seventeen to nineteen thirty-nine, twenty-one years.

Q. And since 1939 what have you been doing with this company? A. Superintendent, processing engineer, production manager, pretty near a sweeper sometimes.

Q. You know all about the process of manufacturing revolvers of this company, do you? A. That's right.

Q. Now, I show you State's Exhibit NN and ask you what that is? A. I believe it to be our Young American Model which we made up until 1935, practically the same design in all ways.

Q. In the Harrington-Richardson Arms Company, is the manufacturing process a process where the parts are interchangeable in that company? A. No. They are on a few. In the last few years some of them are.

Q. Up to 1935 when you were making this Young American model were the parts supposed to be interchangeable? A. No.

Q. What kind of a manufacturing process is involved in making this type of pistol? A. Double assembly. Rough assembly. Finish assembly.

Q. Is it a machine process, or hand process?

A. They are all machined the same. Then the hand work makes the - they are not interchangeable. They are all hand fitted.

Q. I show you State's Exhibit GG and ask you if you can identify those items? A. Left and right pistol grip with the retaining screw, center pin or cylinder pin, main spring.

Q. Now, I ask you, Mr. Stanhope, if you will take those parts and see if these fit State's Exhibit NN. Put it together. A. The center pin, cylinder pin, fits. The hammer screw is missing.

Q. Can you put it together by using something besides the hammer screw? A. I can use this center spring to hold the hammer so it won't fly out and I think that I can assemble this main spring if my fingers don't let go first.

Q. Does it work? A. It is working.

Q. What are you working now? What is that operation that you are performing? A. To make the spring work I pull the hammer back and pull the trigger to let it release. So now it is a firing arm.

Q. What is that that you put into the frame of that gun just now? A. The main spring.

Q. Is that part of that Exhibit, State's Exhibit GG?

A. GG.

Q. That is one of the parts that came out of GG?

A. That's right.

Q. And the pin that you were also using is a part of State's Exhibit GG, is that so? A. That is right.

Q. Now, will you see if you can assemble the rest of

those parts? A. I would like to take this main spring out first. I don't want it to fly out. If I may.

Q. What do you find when you make the next assembly? A. That the two pistol grips and the screw fit the frame assembly, which it is called. The frame assembly.

Q. And what kind of a fit is it? A. Well, it is as close a fit as Harrington-Richardson has ever done on any firearm.

Q. Do you have an opinion as to whether or not those grips belong to that frame? A. I don't see but what it would have to.

Q. It would have to? A. It would have to.

Q. Is it your opinion that these are the grips that belong to that frame? A. Yes, sir.

Q. Now, will you also examine those pistol grips again, particularly with reference to design? A. Yes, sir.

Q. Do you identify the design on those pistol grips? A. Yes, it is one of the designs that we use.

Q. It is one of the designs that your company uses? A. That's right. We do many. This is one of them.

Q. I call your attention to the inside of the pistol grip, both pistol grips. A. I see some scratches. I can't read them.

Q. Do you want to come under the light by the reporter? A. "5755" on both of them.

Q. 5755. Now, that is a number that you just read from both of the grips? A. Right.

Q. And both of those grips are part of State's Exhibit GG? A. GG.

Q. Now, do you have any knowledge of what those numbers are? A. The rough assembly, when they are

fitted to the frame - whether they were fitted to this, I haven't looked at the number yet. But those are the rough assembly.

Q. Do you have a custom in the manufacture of your guns pertaining to the inside of pistol grips? A. Yes, that is the way that we mark them. That's the way you have to match them together.

Q. What is the custom to mark inside the pistol grips?

A. In the rough assembly a man fits the grips, files the edges, buffs them until they are smooth, then takes them apart, and with a sharpened wire like a needle he scratches the number, whatever is on the frame, on the grips.

Q. So that the number scratched on the inside of the grip should be the same number that is on the frame?

A. That is right.

Q. Now, I ask you to look at State's Exhibit NN.

A. 5755.

Q. Is that the number that is on State's Exhibit NN?

A. That's right.

Q. How does that compare, then, with the number on the inside of the pistol grips? A. The same number.

Q. Do you have an opinion now as to whether or not those grips belong to that gun frame? A. No, I think they are the ones that go on there. They are numbered the same, and fit.

Q. Is it your opinion that they are the grips that belong to that frame? A. Yes.

Q. And is that the custom in the manufacture in your company of marking the inside of pistol grips?

A. That's right.

Q. I will ask you one more question. Where on the inside of the pistol grips is that number marked? A. On a

place that will not be filed off. On the top. It is almost in a recess where it is shiny, and in a recess, so that in rubbing in the trays the number will never be rubbed off.

Q. I ask you again to look at the inside of the grips, which are part of Exhibit GG, and I ask you where those scratch marks are, if that is the place that the manufacturing process calls for the customary marking of pistol grips? A. That's right, it does.

Q. Is that the location? A. That is the location.

Q. Is this with your own Company records that are kept in the usual course of business with reference to pistol numbers? A. Manufacturing numbers, yes, sir.

Q. Do you have a record? A. Yes, sir.

Q. You have a record that would refer to guns manufactured by your Company? A. Yes, sir.

Q. And you have a record that refers to a gun number 5755? A. In a group of fifty, yes.

Q. When you say in a group of fifty, will you tell the Court and jury what you mean by that? A. Our procedure in shipping the guns from the inspection department to the shipping room - they are in trays of fifty, and they listed in this book that way unless it is different. If there is a difference it will tell us on the book.

Q. Do you have with you Company' records that were made in the course of business - usual business - which record the gun numbers that are shipped from the assembly room to the shipping room? A. That is right.

Q. Do you have that book with you or do you have a record of gun number 5755 in your records? A. No, not as a number.

Q. Do you have a record of a gun in a series of fifty which would include the number 5755? A. I do.

Q. And from those records can you tell us the year of the manufacture of that gun that would cover number 5755?

A. Yes, sir.

Q. What is the year of manufacture of that gun?

A. 1902.

Q. Now, those records you are referring to, are they the records of your Company kept in the usual course of business? A. They are, for answering such cases as we have right now.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

THE COURT: Step down, Mr. Stanhope.
Do you wish to call back Captain Chameroy?

MR. McDONOUGH: I have no questions of Captain Chameroy.

THE COURT: Then you needn't come back, Captain Chameroy. There are no questions. Call your next witness.

JAMES N. KINGSTON, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. James N. Kingston.

Q. And your address? A. 165 Platt Street, Ansonia, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department, Officer? A. Yes, sir, I am.

Q. How long have you been a State Police Officer?
A. Since March 1, 1949.

Q. On March 1, 1957 were you assigned a duty as a State Police Officer to take some property to the State Laboratory? A. Yes, sir, I was.

Q. And what was that duty you had to perform?

A. I was assigned by Lieutenant Rome on Friday, March 1, 1957 to take a green olive-drab rubberized canvas raincoat to the State Laboratory at 1179 Main Street, Hartford Connecticut.

Q. Did you finish? A. I was going to describe the coat.

Q. I will ask you first, from whom did you receive this coat? A. From Lieutenant Rome.

Q. I show you State's Exhibit FF for identification, and ask you if you can identify that? A. Yes, sir, I can.

Q. What is it? A. This is the same raincoat that was given to me by Lieutenant Rome on Friday, March 1, 1957 at ten o'clock in the morning to bring to the State Laboratory.

Q. What did you do with it? A. I turned this coat over to Miss Dorothy Carlson at two-fifteen on the same date.

MR. LaBELLE: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. That isn't the dirty old coat that Culombe wore in court, is it? A. I don't know, sir.

Q. It certainly is a dirty old coat, isn't it? A. It does seem to be a little soiled.

MR. McDONOUGH: That is all.

THE COURT: Step down.

(Witness excused.)

DOROTHY E. CARLSON, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Dorothy E. Carlson.

Q. Your address? A. 89 East Street, Windsor.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Where are you employed, Miss Carlson? A. At the Toxicology Laboratories, State Health Department.

Q. In the usual course of your duties as an employee of the Toxicology Laboratory, did you receive on March 1, 1957 a particular article from Officer Kingston? A. I did.

Q. What did you receive from Officer Kingston?
A. I received an olive-drab, Army type raincoat.

Q. I show you State's Exhibit FF for identification and ask you if you can identify that article? A. I do.

Q. What is it? A. This is the raincoat that was turned over to me by Detective Kingston.

Q. What time did you receive it? A. Two-fifteen P.M.

Q. What date? A. March 1, 1957.

Q. What did you do with it? A. I assigned a laboratory number to the raincoat and turned it over to Doctor Stolman.

Q. Does the laboratory number appear on this coat?
A. It does on the identification tag.

Q. What is that number? A. 524-B.

Q. Does that correspond with your receipt?
A. It does.

Q. And that is the number marked in red pencil on the identification tag - 57 - 524-B? A. Yes.

Q. What does the 57 refer to? A. The year 1957.

Q. And that is the laboratory number you assigned to this article? A. That is right.

Q. And you turned this article over to Doctor Stolman? A. Yes.

MR. LaBELLE: That is all.

MR. McDONOUGH: No questions.

(Witness excused.)

ABRAHAM STOLMAN, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Abraham Stolman.

Q. Your address? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your profession, Doctor? A. I am Chief Toxicologist for the State of Connecticut.

Q. How long have you been Chief Toxicologist for the State? A. Seven years.

Q. Where did you attend undergraduate school?
A. Rutgers University.

Q. After graduation from Rutgers, what did you do next?

MR. McDONOUGH: I will admit the doctor's qualifications to save time.

THE COURT: Are you satisfied?

MR. LaBELLE: The jury might like to hear them.

MR. BURKE: Do I understand we are still working on the Culombe case?

THE COURT: Is that correct?

MR. LaBELLE: At this time the exhibit hasn't been admitted.

THE COURT: Will the offer be in the Culombe case only?

MR. LaBELLE: It may very well at some time offered in both cases. I will offer it now in the Culombe case.

MR. BURKE: It seems to me if they are going to do that, I should have been warned long ago. I haven't examined these witnesses on the basis that I have assumed this has been on the Culombe matter.

THE COURT: Proceed, Mr. LaBelle.

THE WITNESS: I was with the Rockefeller Institute of Medical Research for a year and a half; then I went on to Columbia University Medical School, associated there for nine years; from there I went to New York University and was associated there for a year and a half; and from there I went with the United States Army Medical Department for four years; and from there I went on to the University of Edinborough Medical School for two years. I have been with the New York Medical Examiner's office for a year and a half, and then with the Ulster County, New York State for six months. Then I came here.

Q. Did you receive any further degrees after you graduated from Rutgers? A. Yes, sir, Doctor of Philosophy in Toxicology.

Q. And where did you receive that degree?

A. The University of Edinborough.

Q. In what year? A. In 1948.

Q. Has your entire experience since graduation from Rutgers been in connection with toxicology work?

A. No, since 1939 - in the scientific field since 1932.

Q. Since 1939 you have been particularly specializing in toxicology? A. Yes.

Q. In the course of your duties have you been called upon in your employment with the State of Connecticut to testify in the courts of the state? A. Yes, I have.

Q. In what capacity? A. As a witness for the examination of certain types of materials - blood stains, poisons; isolation and detection of poisons in the human body and various other phases of police work which require chemical examination.

Q. Showing you State's Exhibit FF for identification, which is in front of you, I ask you if you can identify that garment? A. Yes, I brought it into the courtroom yesterday.

Q. What is it? A. A rain coat.

Q. And from whom did you receive it? A. From my secretary, Miss Carlson.

Q. On what date? A. On March 8 - an hour after 4:15 that day.

Q. With reference to State's Exhibit FF, did you make an analysis of certain spots on that coat? A. Yes, I examined the coat and found the spots on here.

Q. With particular reference to the sleeves, did you make an examination of some of the spots on one of the sleeves? A. Yes, on the right sleeve, the lower portion of the right sleeve, which I cut out and put my initials on it.

Q. Will you show that to the Court and the jury - show it to the Court first and then to the jury.

MR. McDONOUGH: Has that been marked an exhibit?

THE COURT: No.

MR. McDONOUGH: It shouldn't be exhibited to the jury if it is not an exhibit.

THE COURT: No, and I will sustain the objection.

MR. LaBELLE: I am sorry. I will offer it now.

THE COURT: Objection, Mr. McDonough?

MR. McDONOUGH: No objection.

THE COURT: I will mark it a full exhibit in No. 21,666, the Culombe case.

(States Exhibit FF for identification marked as a full exhibit.)

Q. Now, will you show the area you refer to on the right sleeve to the Court first? A. It is the sleeve here right above this flap. That is the area I cut out.

THE COURT: Where are the initials?

THE WITNESS: The initials are right here. I did that on March 26, 1957.

MR. LaBELLE: The witness is showing to the Court and will you also show it to the jury, State's Exhibit FF - showing the right sleeve of that exhibit. Will you take it to the jury and show them what you did, Doctor? A. I cut out this portion of the right sleeve which I circled with a pencil and put my initials on it.

THE COURT: All right, proceed.

Q. That portion you cut out of the right sleeve - did you make a chemical analysis of that material?

A. Yes, I did.

Q. Will you tell the Court and jury what your analysis showed? A. I found blood to be present in that area which I cut out, and the blood was of human origin.

Q. Are there any other parts of State's Exhibit FF where there are similar spots? A. Yes, on the left lapel there are also blood stains.

Q. Will you show that to the Court and jury?

THE COURT: Show it to me.

A. There are blood stains right along in here.

THE COURT: Now show it to the jury.

MR. LaBELLE: The witness is indicating -

A. From the left - along the left lapel - right in this area. (indicating to the jury)

MR. LaBELLE: The witness is indicating the left lapel on State's Exhibit FF for identification.

Your witness.

MR. McDONOUGH: No questions.

THE COURT: Step down, Doctor.

(witness excused)

MR. BILL: Captain Chameroy.

THE COURT: Sit right down, Captain.

FRANK V. CHAMEROY, having been previously sworn, was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. Captain, have you with you State's Exhibit Q for identification, and R-1 and R-2 for identification? They are three jars. A. Yes, I have.

Q. Will you produce them, please? And then have you got State's Exhibit X and Y for identification, two boxes of bullets? A. Yes, sir, I have.

Q. Now, take State's Exhibit Q for identification. Do you find it there? A. Yes, sir.

Q. And do you recognize that? A. Yes, sir; I do.

Q. And when did that come into your possession?
A. It came into my possession on December 17, 1956.

Q. Under what circumstances? A. It was delivered to me by Detective Gutowsky of the New Britain Police Department.

Q. Is that jar in any different shape now than when it was delivered to you? The condition of it, the top of it, or anything else? A. This one is all right.

Q. Have you kept that within your possession except when it has been handled here in the Courtroom?
A. Yes, sir.

MR. BILL: I offer that.

THE COURT: Any objection.

MR. McDONOUGH: I object. There is no connection with the defendant, Culombe.

MR. BURKE: May I ask the Court which case it is being offered in?

THE COURT: I'll see that you get the information, but let Mr. McDonough finish.

MR. McDONOUGH: Are you offering it against Culombe, Mr. Bill?

MR. BILL: Yes, Your Honor. This is the jar that we traced from the brain of the body of Edward Kurpiewski.

THE COURT: Then I take it that's the case you are offering it in?

MR. BILL: And we traced it all along the line, and we are now producing it as being the bullets that were removed.

THE COURT: That obviously is in the Culombe case.

MR. BILL: Yes, Your Honor.

MR. McDONOUGH: That's Exhibit Q for identification?

MR. BILL: That's right.

MR. McDONOUGH: I object, because certainly the jar don't belong. There's no connection with Culombe. There's two objects, apparently, in a piece of paper, that are still wrapped up. We don't know what's in them. As far as the record shows, they haven't been connected with Culombe at all.

MR. BILL: If that's the objection we can soon cure that, Your Honor.

MR. McDONOUGH: Well, let's cure it.

MR. BILL: I will. I was going to ask him to produce it, anyway.

Q. Now, inside of that jar, State's Exhibit Q for identification, was there something in there when it was delivered to you? A. Yes, sir; there was.

Q. And what did you find? A. I found a .32 caliber damaged lead bullet, and a piece of lead.

Q. And did you remove those parts at any time?
A. Yes, sir; I did.

Q. And did you always keep them in your possession?
A. Yes, sir.

Q. Will you remove them now from the bottle that is marked? And are those the articles that you just described? A. Yes, sir, they are.

MR. BILL: I offer them now in the Culombe case.

THE COURT: Do you object?

MR. McDONOUGH: May I examine, Your Honor?

THE COURT: Surely.

BY MR. McDONOUGH:

Q. Where is the bullet, Captain? That's what you say is a bullet? A. Yes, sir.

Q. How do you know it's a .32 caliber? A. Because it was examined and compared with .32 caliber bullets.

Q. Did you examine it and compare it with other .32 caliber bullets? A. I compared its weight, its present weight, and it is in the category of the weight of a .32 caliber lead bullet.

Q. But the whole bullet isn't here, is it? A. No, sir.

Q. Part of it is lost? How large is the part that is lost?

A. That bullet would normally weigh 85 grains, and this part -

THE COURT: He has it in his hand.

A. That part, the large portion, is 57 grains, and this other portion weighs 12 grains.

Q. Isn't it a surmise, Captain, that that is a .32 caliber bullet? Isn't that the fact, that it is a surmise? A. No, sir; I know it to be a .32 caliber bullet.

Q. Do you know what gun it came from? Can you swear what gun it came from? A. No, sir.

Q. You can't say that it came from any gun that has been offered -

MR. BILL: I object to that, Your Honor.

MR. McDONOUGH: I haven't finished my question.

THE COURT: Finish it.

Q. You can't say that it came from any gun that has been offered as an exhibit in this case, can you?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Do you claim, Mr. Bill, that merely because it is a .32 bullet it is admissible?

MR. BILL: I claim that it came from the brain of Edward Kurpiewski and has been followed down through and these are the fragments that came from there, and they are admissible as such as having caused the death of that man, as testified to by the doctor.

MR. McDONOUGH: They still, Your Honor, haven't connected it with Culombe.

THE COURT: But it is admissible in evidence.

MR. McDONOUGH: I just want the record clear, so for the purpose of keeping the record clear, I'll object on the ground there is no connection with Culombe, though I realize the state of the evidence.

THE COURT: There's one thing that concerns the Court. There is no evidence whatsoever concerning the paper in which it is wrapped.

MR. BILL: I was going to develop that further, because I suppose if I am now offering that I am offering these two segments, these two particles, and then it is those that were started out as being extracted from the brain of

Edward Kurpiewski. I'll explain why they are wrapped and who wrapped them.

THE COURT: I don't see that the paper is admissible under any circumstances.

MR. McDONOUGH: I'll save time, Your Honor. I'll withdraw the objection.

THE COURT: All right. Mark it as a full exhibit.

MR. BILL: May we have the bottle marked? It is already marked.

MR. McDONOUGH: I won't object.

MR. BILL: That's simply the carrier with the paper around it.

MR. McDONOUGH: It's perfectly all right.

THE COURT: May be marked a full exhibit, Q, in the case of Culombe, 21,666.

(Jar containing fragments of bullets, previously marked "State's Exhibit Q for identification", received in evidence as a full exhibit in Case No. 21,666, Culombe.)

Q. Now, State's Exhibit NN I show you, and I also show you State's Exhibit GG. Now, whether or not you made any test between those exhibits I just named to see if the parts of Exhibit GG fit Exhibit NN, as Mr. Stanhope testified to? A. Yes, sir; I did.

Q. And what did you find? A. I found that the parts in State's Exhibit GG fit the frame of the Harrington Richardson revolver, State's Exhibit NN.

Q. Now, did you - That's withdrawn. What was the process that you used and the procedure, Captain, when you were seeking to determine whether a certain bullet was fired from a certain gun? Will you explain to the Court what it was? A. Yes, sir; I will. In all firearms or rifles -

MR. McDONOUGH: I object to that question, Your Honor. If he'll confine it to the exhibits in question here, but not to go into a long discourse on any guns in general.

THE COURT: Of course I sustain the objection, but not on that ground. There isn't any evidence whatsoever that any test was made.

MR. McDONOUGH. I object, Your Honor, on that ground.

MR. BILL: I'll go directly to it.

THE COURT: All right.

Q. Did you make a test of this State's Exhibit NN in connection with any bullets? A. Yes, sir; I did.

Q. And what did you do in connection with Exhibit NN, and what bullets did you test, if you did? A. I fired test shots after I assembled State's Exhibit NN, and recovered the bullets for comparison purposes.

Q. Now, how did you do that? What did you do, actually, so the jury will understand? A. In order to compare the usual -

Q. Don't tell us in general. In this particular case, in order to compare, what did you do? A. I fired test shots.

Q. From where? A. From State's Exhibit NN.

Q. Where did you do this? A. In the laboratory.

Q. And what did you fire them into? A. It was fired into what we call a bullet recovery box.

Q. And what did you fire in the way of bullets?
A. I fired two Winchester S. & W. cartridges.

Q. And what was the name of it? A. Winchester.

Q. And what was the caliber? A. .32 caliber.

Q. And after you fired these two shots what did you do? You say you fired them into what? A. Into cotton.

Q. Is that a board raised up as a target? Captain, what is it? A. The bullet recovery box is a box about three feet long; it is filled with cotton waste. The first third is filled with absorbent cotton. We fire our test shots into this box.

Q. You did in this case? You fired the test shots, did you? A. Yes, sir.

Q. Into that box? A. Yes, sir.

Q. What was the purpose of the cotton? A. That's so that the bullet will be stopped and that all of the markings imparted to it by the interior of the barrel of the gun being fired are retained for comparison purposes.

Q. Did you in this case recover these two bullets? A. Yes, sir; I did.

Q. Did you find anything on them that wasn't there before when you fired these two bullets? A. Well, we find the impressions of the rifling of this particular gun impressed on the bullets, and any other markings that are imparted to it by the barrel in the condition in which it was.

Q. What condition was that gun, Exhibit NN, when you received it and also when you fired it? A. Well, the barrel, the interior of the barrel is in very poor condition; rusty and pitted.

Q. Rusted and pitted? A. Yes, sir.

Q. And did that in any way interfere with your test?

MR. McDONOUGH: I object to that. Let him tell what his tests were and what he did, and that's all. Never mind the interference.

MR. BILL: I claim it.

THE COURT: The objection is on the ground that it is leading?

MR. McDONOUGH: It is leading, Your Honor, first.

THE COURT: Secondly, what?

MR. BILL: I'll withdraw it, Your Honor.

THE COURT: All right.

Q. Were you able to make a test with this revolver, actually? A. A comparison with the -

Q. Yes, a comparison test? A. I made a comparison.

MR. McDONOUGH: That doesn't answer the question, Your Honor. I move to strike it out.

THE COURT: It may go out. The question may be asked. If you understand it, please answer it.

MR. BILL: I'll withdraw the question.

Q. Did you make a comparison test? A. Yes, sir, I did.

Q. And in making the comparison test what did you do? A. I placed one of the test shots, fired through the barrel of State's Exhibit NN and recovered, on one stage of the comparison microscope. I might explain the comparison microscope so that the jury will understand what the comparison consists of, if I have the Court's permission.

MR. McDONOUGH: I think the witness ought to stick to the question, Your Honor.

THE COURT: I think he ought to answer the questions, myself. I agree with you, Mr. McDonough.

MR. BILL: I'm not claiming it.

THE COURT: I know.

MR. BILL: That was a request by the witness.

Q. After you recovered the bullets, in this test that you - comparison test, what did you do? A. I compared them on the comparison microscope.

Q. And what result did you get? A. I couldn't get an identification.

Q. And when you say that, what do you mean? An identification of what? A. I couldn't get an identification or a match of the test bullets fired through this gun, with the bullet in State's Exhibit Q.

Q. And why couldn't you?

MR. McDONOUGH: I object, Your Honor.

MR. BILL: I claim it.

MR. McDONOUGH: I object. He couldn't do it, and that's the answer.

THE COURT: I heard you, and I'd like to hear Mr. Bill. How do you claim it?

MR. BILL: I think it ought to be explained, I think it's desirable to understand why he couldn't make the test.

THE COURT: I'll sustain the objection.

Q. Did you make a comparison? A. Yes, sir; I did.

Q. And in making the comparison what did you do?

MR. McDONOUGH: I object. That's repetitious.

MR. BILL: No, I claim it, Your Honor.

THE COURT: I don't see why. He says he made a comparison test and he couldn't get any identification between that and Exhibit Q. I don't see any purpose in this question.

MR. BILL: I don't know - I certainly don't, and the

jury doesn't, I suppose, what he did. He made a comparison and how did he do it? Lay them side by side, or what?

THE COURT: What difference does it make if he couldn't make an identification? I'll sustain the objection.

Q. Did you do anything further with this gun or these bullets? A. With State's Exhibit NN and Q?

Q. Yes. A. No, sir; that was the finish of it.

THE COURT: Perhaps this will be a good place to stop. Will you escort the accused from the Courtroom?

(Accused escorted from Courtroom.)

THE COURT: Ladies and gentlemen of the jury, the usual instruction, you will not talk to anyone about this case or allow anyone to talk with you; should there be anything in the papers tonight or tomorrow morning about this case you will not read that portion of it; should there be any comment on radio or television you will ignore it. When you report tomorrow, you to the jury room, if you please, and you to the alternates' room. You are now excused until ten o'clock tomorrow morning and you may retire. Sheriff, you may adjourn Court until tomorrow morning at ten o'clock.

(Court adjourned, 4:55 P.M.)

THURSDAY - JUNE 20, 1957

THE COURT: Bring up the accused, Sheriff.

(Accused present in the courtroom at 11:01 A.M.)

THE COURT: May I have the jury and the alternates?

(Jury and alternates seated at 11:03 A.M.)

THE COURT: Has the attendance been taken, Jim?

MR. COBURN: Yes, Your Honor.

THE COURT: It seems a funny thing to say, but I say it seriously: If you find this fan is too much on you, I will turn it off. You may proceed when you are ready, Mr. Bill. Incidentally, it isn't too much yet, is it?

MR. BILL: Captain Chameroy.

FRANK V. CHAMEROY, previously sworn, recalled by the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Captain, showing you State's Exhibit Q, there is some blue paper in that bottle and it has been questioned as to what that was. Can you explain that? A. Yes, sir, I can.

Q. Will you proceed?

MR. McDONOUGH: May I have that question please?

(The reporter read the question.)

MR. BILL: May I withdraw that and say this.

Q. The bottle isn't in evidence, but the contents of the bottle, the bullets that you described in Q - they seemed to be wrapped in some blue paper. Can you explain that blue paper? A. Yes, sir, I can.

Q. Will you? A. I wrapped the bullets and piece of lead in blue paper myself just to protect them from banging around in the jar while it was being passed around.

Q. Now, Captain, will you produce State's Exhibit R-1 and R-2 for identification? A. Yes, sir.

Q. How did you get those into your possession?

A. State's Exhibit for identification R-1 and R-2 were delivered to me by Detective Gutowski on December 17th, 1956.

Q. Have you had both of those exhibits for identifi-

cation in your possession since that time? A. Yes, sir, I have.

Q. And is the receptacle and the contents in the same condition now as when you received them in both of those exhibits? A. With the exception of the broken rims of the covers, they are in the same condition.

Q. On both of these bottles or jars of this exhibit, you say they were broken? A. Yes, sir.

Q. And did they become broken in your possession?
A. Well, yes, sir they did.

Q. Under what circumstances? A. Well, when I was working on them - the contents - they became tightened too much by me and in forcing the covers I broke them.

Q. So you broke the covers of the jars?
A. Yes, sir.

Q. In both instances, is that right? A. Yes, sir.

Q. In handling them. It is also visible that the contents of the jar has blue paper in each instance. Can you explain that? A. Yes, sir, I wrapped the contents in the blue paper in both State's Exhibits for identification R-1 and R-2.

Q. Now, take the contents, if you will, from State's Exhibit R-1 for identification, and remove the contents from the bottle, and what have you? A. I have a small piece of lead and a damaged .32 caliber bullet.

Q. And will you remove the contents from the other exhibit, R-2? Let me take them separately - the contents of R-1. It might be confusing. Let us start off with R-1 which you just opened and you testified what that was. Now, as a ballistic expert, did you make some sort of test in connection with the bullets you have described you took from that bottle? A. Yes, sir, I did.

Q. And what were you testing the bullets against?
A. The .32 Russian revolver.

Q. Is that the State's Exhibit MM you are speaking of? A. Yes, sir.

Q. Now, in relation to the contents of State's Exhibit R-1 for identification -

MR. BILL: In connection, Your Honor, with the contents of State's Exhibit R-1 for identification, I offer those in the case of State versus Taborsky as full exhibits.

MR. BURKE: I object to it, Your Honor.

THE COURT: What is the objection?

MR. BURKE: I object to it on the ground that I originally made when Doctor Rosahn testified, and he testified he did not know what was in the jars, and I claim that there is no evidence to show up to now which will show that what the Doctor put in those jars is the same thing this man has before him. Doctor Rosahn said, and it is in the testimony here, that he did not know and could not recognize the contents.

THE COURT: That is your objection?

MR. BURKE: Yes, sir.

THE COURT: I will overrule the objection and admit it in evidence. It may be so marked as Exhibit R-1 in case number 21,665, a full exhibit.

MR. BURKE: An exception?

THE COURT: Surely. A full exhibit.

(Jar marked State's Exhibit R-1 for identification marked a full exhibit in case number 21,665.)

Q. Now, did you take these bullets, being the contents now having been marked State's Exhibit R-1 and make a test with the Russian pistol, State's Exhibit MM?

A. Yes, sir, I did.

Q. In what condition are the bullets in R-1?
A. Damaged.

Q. Damaged? A. Yes, sir.

Q. That is the bullet and the particle, is that what you are speaking of? A. Yes, sir.

Q. And when you received State's Exhibit R-1 were they in that same condition - damaged condition?
A. Yes, sir, they were.

Q. And now you said you made a test - did you make the test to determine whether R-1, the bullet was fired from the pistol - the Russian Pistol, State's Exhibit MM?
A. Yes, I did.

Q. And were you able to determine whether or not it was fired from that pistol?

MR. BURKE: I object to this, Your Honor.

THE COURT: I will let him answer yes or no to that, Mr. Burke. Can you answer that yes or no?

THE WITNESS: Was the question completed?

THE COURT: Would you read it, Mr. MacGlashan?

(The reporter read the question.)

THE COURT: Yes or no.

THE WITNESS: No.

Q. Now, on R-2 - will you remove the contents of that - that is, for identification. What do you find? A. A .32 caliber damaged lead bullet.

Q. And I think you told us when you received that - perhaps not - will you tell us? A. I received it from Detective Gutowski on December 17, 1956.

Q. And is there any change in the exhibit or of the jar or the inside of the contents now than when you received it? A. First, I will say, as I explained before, that the cover became stuck, and in forcing it, I broke the rim off the cover. As far as the .32 caliber lead bullet is concerned it is in the condition I received it on December 17th.

Q. How about the blue paper wrapped around?
A. I wrapped the blue paper around the bullet.

Q. Whether or not you made a test of this particular bullet with some pistol? A. I did.

Q. And with what pistol did you make it?

MR. BURKE: I am going to object.

THE COURT: Not yet. Let him finish the question. Finish your question, Mr. Bill. Read it, Mr. MacGlashan.

MR. BILL: I withdraw it.

I offer the bullet in the case of State versus Taborsky - State's Exhibit R-2 for identification.

MR. BURKE: I object to the offer.

THE COURT: For the same reason?

MR. BURKE: The same reason that it hasn't been shown that it is the bullet. I assume it is being offered merely to show it was a bullet taken from one of the men in New Britain, as I recall the transcript, and the transcript is clear that the Doctor who testified to it could not identify the objects in the jar as the one he put in.

THE COURT: Overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely. Mark it a full exhibit.

(State's Exhibit R-2 for identification marked as a full exhibit in case number 21,665.)

Q. Now, did you take the bullet, R-2 Exhibit R-2, and make a test with it? A. I did.

Q. And did you make a test of it with some pistol? A. Yes, sir.

Q. And with what pistol did you make the test?

MR. BURKE: Objection, Your Honor.

THE COURT: What is the objection?

MR. BURKE: If it's the pistol, State's Exhibit MM, that is not in exhibit in the Taborsky case.

MR. BILL: I will withdraw the witness - or I will state now that I will connect it up with Taborsky afterwards. I will withdraw the witness if necessary, but I will make this statement that I definitely intend to connect this Russian pistol with Taborsky.

THE COURT: Is that satisfactory?

MR. BURKE: That is satisfactory, subject to Your Honor striking it out if it is not connected.

THE COURT: Well, you may so move, if it isn't. I will overrule the objection. The answer may be given. Do you remember the question.

THE WITNESS: No, sir.

THE COURT: Would you read it, Mr. Burke?

(Last question read by reporter)

A. With State's Exhibit MM, the Russian .32 caliber revolver.

Q. You testified as to the condition of this bullet, did you not? A. Yes, sir.

Q. State's Exhibit R-2? A. Yes, sir.

Q. Was in what condition? A. Damaged

Q. And could you determine from your test whether or not this bullet, R-2, was fired from the pistol, State's Exhibit MM? A. I could not.

Q. Have you got State's Exhibit Q? Just one item that I want to have explained about State's Exhibit Q. I don't believe that I asked you. What is that paper, that blue paper that is in the jar. Do you know? A. Yes, sir, I do.

Q. And what is it? A. It is blue paper that I wrapped around the piece of lead and lead bullet that was in the jar when I received it.

Q. Otherwise is State's Exhibit Q in the same condition as to the jar and the bullets and the contents other than what you have just described here when you received it? A. It is.

MR. BILL: Your witness.

THE COURT: Mr. McDonough.

MR. McDONOUGH: No questions, Your Honor.

THE COURT: Mr Burke.

MR. BURKE: No questions, Your Honor.

THE COURT: Very well you may step down, Captain.

MR. BILL: Lieutenant Rome.

THE COURT: Sit right down, Lieutenant.

SAMUEL ROME, having been previously sworn was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

* * * * *

Q. I show you State's Exhibit MM -

MR. McDONOUGH: What case is that in, Mr. Bill?

MR. BILL: That is in the Culombe case.

Q. - and I ask you if you have seen that before?
A. Yes, sir.

Q. I ask you when you first saw it? A. I saw it about 2:00 p.m. on February 28th, when it was handed to me by Officer Fersch, at the -

Q. Now, just prior - that's withdrawn. Where was that? A. That was on Newfield Street, near Dexter.

Q. And just prior to that where had you been and with whom? Not the exact location, but were you in a car?
A. I was in an automobile with Arthur Culombe and others on the way to New Britain.

Q. And did you receive a radio call? A. I did.

Q. And in response to that call where did you go?
A. I went to the scene of the swamp at the corner of Newfield Street and Dexter.

Q. And did the occupants of the car, including Culombe go with you in the car, there? A. Yes, sir.

Q. And was the accused Culombe present when that gun was turned over to you? A. He was.

Q. And whether or not you had any conversation with the accused Culombe in connection with that pistol, Exhibit MM? A. Yes, I did.

Q. And what was it? A. I showed him this gun, revolver, and he said that that was his, that is the gun that he gave -

MR. BURKE: Objection, Your Honor.

MR. BILL: He hasn't finished the answer.

MR. BURKE: That's why I want to object at this time.

THE COURT: He has got a right to do it. That applies to State vs. Taborsky, and I'll sustain the objection and direct the jury, as I did yesterday, that this evidence is not being received in the case of State vs. Taborsky and is to be eliminated from your consideration of that case, but I will admit it in the case of State v. Arthur Culombe. Now you may proceed.

MR. BURKE: Your Honor, may I also for the record make this objection that it is my contention that this admission, even in the Culombe case does prejudice the jury against Taborsky, and we object to it on that grounds too.

THE COURT: I will overrule the objection on that ground, although I sustained it on the other.

MR. BURKE: May I have an exception?

THE COURT: Surely. Go ahead.

A. And that is the gun that he, Arthur Culombe, gave to Joseph Taborsky the night that they went to New Britain and held up Kurp's gasoline station.

Q. Now, at a later date did you at sometime show that gun to Joseph Taborsky? A. I did.

Q. And when was that? A. That was on Saturday afternoon, Saturday around noon, March 2nd.

Q. Where? A. At the State Police Headquarters.

Q. Under what circumstances? A. I asked Captain Chameroy, who had possession of it at the time, to loan it to me, and he brought it upstairs and I brought it into the room where Joseph Taborsky was and I showed him this gun.

Q. Was there anyone else in the room? A. Sergeant Paige, Joseph Taborsky.

Q. Go ahead. A. And Joseph Taborsky says that he recognized that gun by the plastic handles, a crack in the handle, and the writing on the side, and that that was the gun that Arthur Culombe - not mentioning him by name - had turned over to him, loaned him the night of December 15th.

Q. Now, in examining that gun at that time and now do you see any cracks in the handle there? A. Yes, sir.

Q. And writing?

MR. BURKE: I object, Your Honor. This is testifying from an exhibit not in evidence - this gun.

THE COURT: I will sustain the objection.

MR. BILL: I will offer it.

THE COURT: In the Taborsky case?

MR. BILL: In the Taborsky case.

THE COURT: Is there objection?

MR. BURKE: I will object to it.

THE COURT: Do you want to state the grounds?

MR. BURKE: Yes. I think that the gun is not shown in anyway to be connected with the offense alleged. The Captain has testified that they can't tie up these bullets with the gun, that particular gun, and as I understand this Mr. Witness' testimony here he said that Taborsky said that is the gun that somebody gave him. He didn't say that Culombe gave it to him, and that gun has been shown to be the property of Culombe.

THE COURT: Had you completed your objection?

MR. BURKE: I have, Your Honor.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. And I will admit Exhibit MM in Case No. 21,665, it already being MM in case No. 21,666.

(Russian revolver received in evidence and marked "State's Exhibit MM, Case No. 21,665, Taborsky")

Q. Referring to this State's Exhibit MM, at the time that you were in the presence of Taborsky and this conversation took place about cracks, did you see any cracks in the handle of the gun, or anywhere? A. Yes, sir, on the plastic grip.

Q. Do you see them now? A. Yes, sir.

Q. Will you show His Honor? (Witness exhibits gun to the Court).

THE COURT: I see it.

Q. Will you pass in front of the jury, the alternates, go through in front of the jury, showing it? Don't say anything, Lieutenant Rome. Just show it to them.

(Witness exhibits gun to jury and alternates)

Q. If there is any writing, point that out.

THE COURT: You may proceed, Mr. Bill.

Q. Did you point out the writing to the jury? A. I did.

MR. BILL: Your witness.

THE COURT: Mr Burke, I take it - excuse me. Mr. McDonough, do you have any questions? Mr. McDonough, did you hear me?

MR. McDONOUGH: Beg your pardon?

THE COURT: Do you have any questions of the Lieutenant?

MR. McDONOUGH: No, Your Honor.

THE COURT: Mr. Burke.

CROSS EXAMINATION BY MR. BURKE:

Q. You say that this gun was turned over to you on February 28th? A. Yes, sir.

Q. And that you had it on March 1st? A. No, sir.

Q. The police had it on March 1st? A. Captain Chameroy did.

Q. He is in the state police, isn't he, Lieutenant? A. Yes, sir.

Q. The police had it then, didn't they? A. Yes, sir.

Q. And you knew that they had it? A. I turned it over to them.

Q. You knew that they had it? A. Yes, sir.

Q. And on March 1st is the date that you talked to Taborsky on this question and answer business which is in this case, the so-called confession.

Q. You didn't show him the gun that day? A. No, sir.

Q. Now, never did Taborsky tell you that he got a gun from Culombe, did he? A. He got a gun from the other guy that went to New Britain with him the night of this hold up, yes, sir.

Q. With him the night of this hold up? Did he ever mention Culombe's name? A. No, sir.

Q. So that he had never said that he received any kind of a weapon from Culombe, did he? A. Not by name, sir, but the man who went -

Q. Never mind that.

* * * * *

VINCENT J. O'BRIEN, having been previously sworn was recalled by the State, and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

* * * * *

Q. Was a gun discussed there? A. Yes, sir.

Q. And was it discussed with Culombe? A. Yes, sir.

Q. And what was the nature of that discussion? Who said something? A. Lieutenant Rome asked him -

Q. Asked who? A. Asked Culombe who he gave this gun to.

Q. And that was the gun that Rome had at that time? A. Yes, sir.

Q. Go ahead. A. Culombe answered that he had given it to Joseph -

MR. BURKE: I object to this, Your Honor, on the grounds that it is prejudicial certainly to my client, and that is the reason for the introduction of this evidence, and besides that it isn't admissible in the case against Taborsky.

MR. BILL: It isn't for that purpose.

THE COURT: No, I will sustain the objection in so far as Taborsky is concerned. The jury will disregard this evidence and what is now to come in the case of State vs. Taborsky and give it no consideration in that case whatever. However, it is admitted in State vs. Culombe. You may proceed.

MR. BURKE: May I have an exception to its admission at all, Your Honor.

THE COURT: Yes. Go ahead.

A. He said that it was the gun that he had given to Joseph Taborsky.

Q. Anything further? A. He asked Culombe what calibre it was. He answered that it was a .32. He asked him where he had thrown it out in the pond, and Culombe pointed to workmen who were in the pond, and indicated that it was near where they were.

Q. Was there any conversation about where the gun was used? A. Yes, he said that that was the gun that was used in New Britain. He was later asked -

MR. BURKE: I object to this. There is no question pending.

THE COURT: That's right.

Q. What was he asked? A. He was also asked by

Lieutenant Rome as to where another gun was, and he said that it would be a few feet away, and that the other gun was in two parts.

MR. BILL: Your witness.

JUNE 20th, 1957. 2:20 P.M.

THE COURT: Bring up the accused, Sheriff.

(The accused present)

(Jury and alternates not present)

THE COURT: You may proceed when you are ready, Mr. Bill.

MR. BILL: If it please the Court, I suppose no other law is more misunderstood or misinterpreted than this two witness rule, on the face of it being called a two witness rule might infer to anyone that hasn't read the cases that in order to prove a murder case you have got to have two eye witnesses. Now, of course, when that is analyzed it is ridiculous, because the crime of murder nine out of ten times is done in the absence, particularly and meaningly and on purpose in the absence of witnesses.

I am not going to argue to any great length because I know Your Honor knows the cases and knows the rule, but Mr. Burke has enlarged on it, and in defense of our case that it does fit the rule I do want to make these remarks.

There is a long line of cases. Probably the best cases are *State vs. Shute*, 97 Conn., 466, and *State vs. Chapman*, 103 Conn. 453. *State v. Chin Lung* 106 Conn., 701, *State vs. Palko*, 122 Conn, 529, *State vs Pond*, 123 Conn., 666. *State vs. Cots*, 126 Conn., 48, *State vs. Taborsky*, 139, Conn., 476 and *State vs. Malm*, 142 Conn. 113 and many others, but those are the well known cases.

Now, the rule is well stated in the Taborsky case where it goes back to the days of Swift, that "If there be two or more witnesses, each testifying to different parts of the

same transaction, or to different circumstances attending it, and all concurring to prove the crime alleged, this will be sufficient to warrant a conviction, though there should not be any two witnesses to any one fact. By 'different parts of the same transaction, or different circumstances attending it,' the author refers to relevant facts tending to prove an essential element of the capital crime charged. All that the statute requires, therefore, is that the proof of all the essential elements of the capital crime charged, each of which must be proved beyond a reasonable doubt, shall not depend upon the testimony of one witness. If one or more witnesses testify to facts relevant and sufficient to prove some of the essential facts of the capital crime charged, and another witness or witnesses testify to facts relevant and sufficient to prove the remaining essential facts, the jury may find that the statute has been satisfied."

There is also the two witnesses or equivalent thereto. Of course, the case that identifies itself most particularly to this case, Mr. Burke left out completely, whether or not on purpose, or he didn't read it, and that is *State vs. Malm* that was tried in this court here, and that is 142 Conn., 113, at 110, the fact that has to do with the two witness rule. Now, that case went on through to the Supreme Court, and if Your Honor remembers the facts in that case, nobody identified Malm. He is the man that strangled the little girl here in Hartford. Nobody saw him do it. He confessed and there were corroborative facts tying him in with the confessed act and corroborating those facts, and there were other witnesses as to material facts, all culminating in the crime itself.

Now, he was just as clear from being seen by any witness at all down there in the south end of the city where he strangled this little girl, or was there, as these two men who were at the gas station in New Britain. We have even got more than that, because in the Malm case we didn't have any evidence as to his own whereabouts that day or

some of the things that he did that would have linked him with the crime, except what he said himself. Here Your Honor must remember that we had a lady, Mrs. Quattropani, who saw these two men together moving a television set before the time of the crime, and we traced these two men - this was at Culombe's house, outside of Culombe's house - and we traced them again by Mr. and Mrs. Harris as being in a car subsequent to the crime, and they were in there together. We have got in addition to their confession a corroboration of circumstantial facts that fit in with the confession, and I don't need to enumerate them. Your Honor has heard them. Things in and about the station that only they would know. We have got Culombe identifying a gun that was used in the New Britain affair, according to his admission, that was found in the swamp, according to his direction, that is linked up with parts of the gun found in his home. That puts him right in there. Taborsky had identified the gun, the Russian gun, and there has been testimony of cracks in the handle, and they are there.

Now, as I say, if you read the Malm case I think that is as near as we have to go, where the Court then states that there was just a confession and then these corroborative facts, a bag of potatoes and some cookies which the little girl had purchased at a store, and the tip that was on the socks of the accused, and other things out there at the scene, and we have them here and they were both identified and this is a better case than the Malm case.

So the rule, Your Honor, according to the State has been well complied with and it is a matter that has been, as I say, discussed and ruled on many times, and we feel that the State is well within the two witness rule.

MR. BURKE: May it please the Court, I would like to answer one or two of Mr. Bill's arguments -

MR. BILL: Oh, before that, Mr. Burke, will you just let me add one other thing.

There was something said here about we didn't prove the robbery. Well, the Rogers case in 143 Conn., at 176 says "Whether she was killed before the money was taken or whether she was killed moments thereafter, we fail to see that the Court was in any way enlarging the letter of the indictment. An attempt at robbery is of the same significance as an actual robbery, if in either instance a life is taken. A charge of attempt is included within the charge of a completed offense."

Now, we show around the station the cabinet drawers pulled out, papers littered around. In their confessions they each said that money was taken, and that is within that same rule of corroboration, and we show the death of these men which there could be no other inference but what it was done in the act of a robbery, going in there illegally and killing those men, and we claim, of course, that is within the rule.

* * * * *

MORRIS KAPLAN, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Morris Kaplan.

Q. Your address? A. 14 Summer Street, Bridgewater, Mass.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, you have competition, you have a fan in back of you and a jury down here.

THE COURT: He has the fan in back of him but it isn't doing anything.

Q. Where do you live 14 Summer Street, South Bridgewater, Mass.

Q. You are a practicing physician? A. That's right.

Q. Where do you practice, Doctor? A. At the Bridgewater State Hospital, South Bridgewater, Massachusetts.

Q. And you specialize in what? A. I have been doing psychiatric work for the last ten years.

Q. What type of hospital is that? A. That is a hospital designated for the criminally insane.

Q. And located in the State of Massachusetts?
A. South Bridgewater, Mass.

Q. And is it a State institution? A. That is right.

Q. Your position is what? A. Clinical Director.

Q. In your position do you have under your control and supervision of patients or inmates of the hospital?
A. Yes, sir.

Q. In response to a subpoena, have you here the clinical and case records of Bertram Arthur Culombe.
A. Of Bertram Culombe, yes, sir.

Q. And what date is that? A. You mean the date of admission?

Q. Yes, sir. A. June 11, 1941.

Q. Does it show the time of discharge? A. July 16, 1941.

Q. And what address does it give of the patient or the inmate? A. You mean home address?

Q. Yes. A. Actual home address, 37 Brownell Street, Fall River, Mass.

Q. And his age is 17 years? A. On admission it was seventeen years.

Q. You do not know Bertram Culombe personally, do you? A. No, this was long before my time.

Q. Have you the records with you, Doctor?
A. Yes, sir, this is the entire record.

MR. McDONOUGH: May that be marked for identification, Your Honor.

THE COURT: Yes, Do we have a number in the Culombe case.

MR. BILL: Yes, we have. The last one was six.

THE COURT: This may be marked seven for identification in 21,666.

(Hospital record of Culombe marked Defendant's Exhibit 7 - Culombe - for identification - number 21,666.).

Q. Doctor, looking at defendant Culombe's Exhibit 7 for identification, can you tell us what date the discharge was from the institution - what is shown there? A. July 16, 1941.

Q. And from those records does it appear how he happened to be in the institution?

MR. BILL: I object, this is in for identification.

MR. McDONOUGH: I offer it in evidence.

THE COURT: Is there objection?

MR. BILL: Well, there is this objection - unless - I presume it can be shown later - but we know of no Bertram Culombe.

THE COURT: The testimony is that his name is Bertram Arthur Culombe.

MR. McDONOUGH: We will connect it up.

THE COURT: That is the evidence before me.

MR. McDONOUGH: We will connect it up to show it is this defendant and we will have the physician here.

MR. BILL: With that promise I have no objection.

THE COURT: It may be marked a full exhibit, and I suppose we might as well mark that as seven, Mr. McDonough.

(Defendant's Exhibit 7 for ident. marked full.)

MR. McDONOUGH: Doctor, that will have to remain here and I will see that it gets back to you.

THE COURT: I want to point out to you Mr. McDonough in the system that I am following and will follow, there are omissions numerically in your exhibits because there are at least one or two of the exhibits that have been taken by the State, but I would prefer, unless you have objection, to go along and just skip two and three or whatever.

MR. McDONOUGH: Yes, and have the rest as seven, eight and nine.

THE COURT: That is right, so this will be Exhibit seven.

MR. BILL: I think I should be allowed to read the exhibit.

THE COURT: He is going to read it?

MR. BILL: I didn't know, but what it was going to be used in connection with the next witness.

MR. McDONOUGH: I don't intend to.

MR. BILL: I don't know whether I should have to read it.

THE COURT: Let the evidence go to the point where you feel you might need it and I will give you an opportunity to look it over.

MR. BILL: Thank you, Your Honor.

ARTHUR CULOMBE, the accused, previously sworn, recalled by Mr. McDonough.

THE COURT: Mr. McDonough, I have asked you this before, but for the record again, I have the right to assume that this witness has been advised of his rights.

MR. McDONOUGH: Yes, Your Honor, he has been fully advised. This witness has been sworn and is recalled.

THE COURT: That is right.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Culombe, how old are you today?
A. Thirty-three years old.

Q. Where were you born? A. Fall River, Mass.

Q. Where did you go to school? A. I went to school in Fall River, Mass.

Q. How many schools have you gone to? A. About four or five.

Q. What was the first school you went to?
A. A Catholic school.

Q. And what was the name of the school?
A. I don't know the name of that.

Q. How long did you remain in that school?
A. Oh, for sometime - a period of two or three years, I guess.

Q. What was the next school you went to? A. The next school was St. Joseph's School, another Catholic school.

Q. Where was that located? A. It was located in Fall River on Main Street.

Q. How long did you go there? A. I can't remember how long that was.

Q. For how long did you stay there? A. It must have been perhaps five years or less.

Q. Do you know how old you were when you started going to school? A. Five or six.

Q. What was the next school you went to?
A. I went to a public school.

Q. And how many years did you go to a public school?
A. About three or four or five years.

Q. Do you remember the name of that school?
A. Well, I know it is down in the north end of Fall River but I don't know the name of it.

Q. Do you know how long you went to that public school? A. About four or five years, I guess.

Q. Now, how old were you when you left school?
A. Sixteen years old.

Q. Do you remember the grade you were in when you left school? A. Yes, I do.

Q. What grade? A. Special third grade.

Q. Special third grade? A. Yes, sir.

Q. What did you do after you left school?
A. I worked in a bowling alley.

Q. Where was the bowling alley located?
A. In Fall River, Mass.

Q. Do you remember the name of the bowling alley?
A. Durfee's Bowling Alley.

Q. How long did you work there? A. About a month.

Q. What did you do after that? A. I worked in the Army Trunk factory in Fall River, Mass.

Q. How long were you there? A. About a month.

Q. Where were you living - what street - at that time? A. Well, at the time I worked in the bowling alley I believe I lived on - down the north end - Main Street - I don't know the name of the street.

Q. Who were you living with? A. With my father and mother and brothers and sisters.

Q. After you left the trunk factory where did you go to work? A. Well, I didn't go to work - I went to the State School for Boys at the Lyman School in Westboro, Mass.

Q. What kind of a State School was that? A. It is more of a training school than anything else.

Q. An Industrial School? A. Yes, sir.

Q. A Reform School? A. Well, it is classed as an industrial and reform school, both.

Q. How long were you there? A. Well, the first time I believe I was there about six or seven months.

Q. Tell us, how did you happen to go there? A. Well, I was involved for breaking and entering and stealing bicycles and things like that.

Q. Did you go there of your own free will or were you sent there? A. No, I was sent there by the Court.

Q. What Court? A. Fall River, Mass.

Q. How long did you stay there? A. About six or seven months the first time.

Q. And after you got out of there in six or seven months what did you do? A. I don't think I did anything at that time but just hang around for awhile.

Q. Did you go back to any school or did you go to work? A. Well, I can't remember that.

Q. Did you go back to that school later? A. I did.

Q. How did you happen to go back to the Lyman School? A. I got involved in more breaking and a theft and got caught.

Q. How long did you remain there at that time?
A. About a year and a half.

Q. During the time you were there, the first or second time, were you involved in any accident? A. Yes, I was involved in an accident while we were playing baseball.

Q. What happened to you? A. Well, I missed the ball - catching it - and I got hit in the head with the ball.

Q. Was that the first or second time you were there?
A. No, that was the second time I was there.

Q. You got hit in the head with a ball - what happened to you? A. It knocked me unconscious.

Q. And after you left school on the sceond trip what did you do - where did you go? A. Well, I was out for a short while, maybe a period of about a month. Then I went into the City of Brockton, Mass., to look for a job. I didn't have no luck getting a job so I decided to steal an automobile.

Q. Tell us about that. A. Well, I was out with another fellow at the time.

Q. Did you drive the car? A. No, I didn't know how to drive a car but I was in the car.

Q. Go ahead. A. We decided to steal this car - the keys was in it - and go for a joy ride, and we just got in the car and started it up and went around the block and turned up a one-way street and there was a policeman there and he stopped us and we made a "U" turn. We got out and run and he caught him but not me. Later they picked me up.

Q. You are talking to the ceiling. I don't think the jury can hear you. Talk to the jury.

MR. BILL: At this time I object to this testimony.

MR. McDONOUGH: I will withdraw the question.

MR. BILL: I mean the whole line of testimony unless the purpose is stated so that the Court and Jury and I will know what the claim is here.

MR. McDONOUGH: The purpose, Your Honor, I might state, is that all these actions will be tied up with his commitment and confinement to mental institutions and what he is referring to now. He did go to a mental institution, the exhibit of which has just been offered here and marked as an exhibit. It will bear on his mental condition.

THE COURT: That is the reason it is offered?

MR. BILL: That is all I want.

THE COURT: Go ahead. Do you want the last question?

MR. McDONOUGH: Yes.

THE COURT: Read the question and answer, Mr. MacGlashan.

(The reporter read the last two questions and answers.)

Q. Now, the jury is over here. Go ahead. A. Then I was brought into a Court in the City of Brockton to face a motor vehicle charge and I pleaded not guilty and the fellow's mother I was with told me to waive examination to the Superior Court, that I didn't know what that meant at the time. So I did that and we was brought into Plymouth, Massachusetts and I pleaded not guilty and I think I went up for a year, and shortly after I pleaded guilty and the Court hired two psychiatrists to examine me and found me to be committed to Bridgewater State Hospital for observation from the Court, and I stood there about thirty or

thirty-eight days or so and I was committed to the Wrentham State School for Boys where there is a State mental institution there for weak minds and upset minds.

Q. After you were committed to Bridgewater you were then committed to Wrentham State School for Boys, a mental institution? A. Yes, sir.

Q. How long were you there? A. There about a year or a year and a half, I guess, I don't know but it was in that time.

Q. Were you confined there for a year or a year and a half? A. No, I wasn't.

Q. Well, tell how long you were there or what happened? A. I think I was there about a month or two and I took off from the place, and shortly after they picked me up at my home where it was in Fall River, Mass. and brought me back, and I think I was there about three or four more months, and I took off with about three or four other fellows from the place and they picked me up and brought me back, and I think the third time I was there about six or seven months, and I took off with three or four other fellows - different fellows - and they picked me up and brought me back, and the last time they warned me if I should take off from the place anymore I am to go to Bridgewater where I should have been in the first place.

Q. That is the hospital for the criminally insane?
A. Yes, At Bridgewater, Mass.

Q. What happened - did you return there? A. No, I didn't I took off again and kept going.

Q. And that was in what year? A. That was in 1941.

Q. And have you ever been picked up in an effort to be returned there? A. No, I haven't.

Q. Have the authorities known where you were since then? A. I don't know if they knew, but I left from there to come to Hartford.

Q. I mean, have you been in the custody of the law since you escaped the four times? A. Yes, I have been in the custody of the law about four times since then.

Q. The last place was the Connecticut State Prison?
A. Yes, sir.

Q. Did you tell the prison authorities or any other institutions that you had been at the Wrentham State School for Boys and threatened with Bridgewater?

A. Well, the Superior Court here in Hartford knew I was in the State Hospital because it was in the record, because it was brought out here in the trial the first time I was brought into court - the first arrest I made in Connecticut back in 1944, and it was stated - Mr. Alcorn was here then - and he knew I was in an insane asylum.

Q. Was that stated to the Court in your hearing?
A. Yes, sir, they have a record of that.

Q. Now, do you recall, Culombe, when you were a boy a bridge known as Slate Ferry Bridge? A. Yes, I do. There is two bridges in Fall River, Mass. going across a river known as the Taunton River in Fall River - there is two bridges going across - one of them a new bridge and the other one down the other end known as the Slate Ferry Bridge.

Q. Yes. A. And I know that bridge pretty well - I used to swim around there.

Q. Did something happen to you on that bridge when you were twelve or thirteen years old? A. Yes, we used to dive off that bridge, and on the top of the bridge there is railroad tracks and below the bridge there is automobiles, and underneath there is boats going through, and I think the bridge was there in two sections, and at the time we

used to dive off the bridge there, and the bridge is about ninety feet high, so one day there was a bunch of kids I used to be with and they dared me to go up to the top and dive off that bridge. I looked from the top where the railroad tracks is down and I felt kind of dizzy, and it looked awful low at that down to the bottom of the water. They finally called me chicken and a lot of other things but I finally dove off that bridge.

Q. What happened? A. Then I fractured my head on the stones down below that bridge.

Q. Were you able to get up and walk away, or what happened? A. Well, I didn't then. They had what they call a raft or something in the water, and I laid there for a while, and I think - I don't know how long I was there - and my mother and father was going across the bridge and they saw me, and I think my father came down to help me up, and then from there they took me to the hospital.

Q. Now, have you ever injured your head during the time you were a boy besides that occasion and the baseball incident when you were knocked unconscious? A. Well, there was another time going to school when some boys were on top of the railroad bridge throwing stones. I have been hit on the head several times with the stones.

Q. What happened as a result of that? A. They took me to the doctor and the hospital to take x-rays, and then my father went to the police station to make a complaint about it.

Q. Do you remember when you were a little boy having a doctor come to the house for you? A. Well, as far as I remember, we used to have the family doctor.

Q. What was his name A. Dr. Lewis.

Q. Is he dead or alive? A. I wouldn't know.

MR. McDONOUGH: Your witness.

THE COURT: Would you like an opportunity to examine the record?

MR. BILL: Yes, Your Honor.

THE COURT: All right. You may escort the accused from the courtroom. You may step down.

The jury may ~~retire~~ to their room and the alternates to theirs.

(Jury retired at 3:05 P.M.)

THE COURT: Let me know when you are ready, Mr. Bill.

MR. BILL: Yes, than' you, Your Honor.

THE COURT: Short recess.

(Recess at 3:05 P.M.)

* * * * *

VLADIMIR THEODORE LIEBERSON, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Egan, testified as follows:

BY MR. EGAN:

Q. State your full name and address, please, for the record? A. Doctor Vladimir Theodore Lieberson.

Q. Where do you live? A. Veterans' Hospital, Rocky Hill, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Doctor, I am going to move back here so that I will make sure that the jury hears you as well as I do. Doctor, what is your profession? A. I am a Medical Doctor and I am doing electro encephalography.

Q. That is a special field of medicine? A. That is right.

Q. What is that field? A. It is a field which is called applied neuro physiology and clinical neuro physiology, and in particular, what we do is to record the electrical activities of the brain.

Q. Is that what is called by the lay person a brain wave? A. That is right.

Q. Examination. Now, what is your medical education and hospital background, Doctor? A. I finished medical school in Paris in 1936.

Q. Paris? A. Yes, sir, Paris, France, and I also had been studying science and have a Ph. D from the University of Montreal in 1950, I have been doing electro encephalography since 1936 - brain tests - brain wave tests.

Q. What hospitals have you been or are connected with? A. Well, in this country, Mount Sinai, New York first, then the Institute of Living in Hartford, the Hartford Hospital, Saint Francis Hospital, Newington Home for Crippled Children, State Veterans' Hospital, Northampton, the Veterans' Hospital in Springfield, and Mercy Hospital.

Q. Now, Doctor, looking down here at the end of my table to your left, do you recognize this man as having been examined by you? A. I do.

Q. Arthur Culombe? A. Yes.

Q. Do you recognize this man, Doctor? A. I do.

Q. In March of this year did you, under an appointment by this Court, examine this man for the so-called brain wave test? A. I did.

Q. When and where, Doctor? A. At Saint Francis Hospital on March 26, 1957.

Q. Now, will you tell His Honor and the jury of your examination and the results and conclusions that you reached? A. Well, during this examination we put sixteen

electrodes on the head of Mr. Culombe and we ran the record on the arresting conditions during sleep. We asked him to hyper ventilate - to increase his respiration, which is one of the phases of the tests, we also repeated all these tests after giving him some sugar water which may modify the brain wave, and after all this was done the conclusion was that the record was not normal. There were minor but consistent abnormalities, deviant patterns, which consisted of unusual single sluggish waves which suggest that there is some disfunction in this brain. However, there was no evidence of gross pathology, there was no evidence of tumor, no evidence of hemorrhage and no evidence of an epileptic disorder.

Now, following this examination I wrote the report - would you like me to read?

Q. Yes, I have it. A. I will read the record: "This record does not show any gross abnormality. There is no specific or focal pattern. There is mild non-specific episodic deviant pattern which might be related to personality disturbance. This finding might be reinvestigated."

Q. So you did find some affirmative findings, did you not? A. Yes, that is right.

MR. McDONOUGH: That is all.

THE COURT: Cross examine, Mr. Bill?

CROSS EXAMINATION BY MR. BILL:

Q. Is the prime reason for this test, Doctor, to determine whether there are symptoms of a tumor or of epilepsy - that is generally the reason for the test, isn't it?

A. No, sir.

Q. Can you determine the existence of a tumor or tendancy of a tumor from this test? A. I can suspect it, yes, sir.

Q. You can suspect it. And how about epilepsy?
A. The same thing.

Q. And are all these symptoms from which you make your conclusion - they are suspicions only - suspects only?
A. It is a suspicion of tumor but it isn't a suspicion of an abnormality.

Q. Well, A. In other words - may I complete?

Q. I am sorry. A. What we find is an abnormal pattern, the evidence of gross pathology, but we cannot state whether this is definitely a hemorrhage or a tumor in certain cases, but there was a suspicion of abnormality. Abnormality is there.

Q. And was that gross? A. In this case, no.

MR. BILL: That is all.

REDIRECT EXAMINATION BY MR. McDONOUGH

Q. But there is abnormality there? A. There is abnormality there.

Q. And I think you closed your report of your finding that it may be reinvestigated because of what you did find?
A. That is right.

MR. McDONOUGH: That is all. May the witness be excused?

MR. BILL: Yes.

THE COURT: He may be excused.

(Witness excused.)

ROBERT C. DOHERTY, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Egan, testifed as follows:

BY MR. EGAN:

Q. State your full name and address for the record,

please. A. Robert C. Doherty, M.D., Hartford, Connecicut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, on the application of myself, as attorney for Culombe, were you appointed as the psychiarist to assist in the defense of Culombe? A. I was.

Q. And make an examination of Culombe as a phychiatrist? A. Yes, sir.

MR. BILL: May I have that last question and answer - the last two?

THE COURT: Yes, read it, Mr. MacGlashan.

(The reporter read the last two questions and answers.)

Q. Doctor, will you tell us your educational and medical and hospital background in connection with this? A. I am a graduate of the University of Vermont Medical College, 1947, received training at Saint Francis Hospital as an intern, residency training in psychiatry at Vermont State Hospital, Saint Elizabeth Hospital, Washington, D.C., Institute of Living in Hartford, Connecticut. I served as Chief of Psychiatry for the Air Force for a period of five years, and at the present time I am in private practice in Hartford and on the staff of Saint Francis Hospital, McCook Hospital and am Psychiatric Consultant at Wethersfield State Prison.

Q. Doctor, in accordance with your appointment, did you undertake the examination of Arthur Culombe, the defendant in this case? A. I did.

Q. When did you first see him? A. I first examined him at the Seyms Street Jail, I believe, on March 17, 1957.

Q. How many times have you visited and examined Culombe? A. On three different occasions.

Q. How much time did you spend with Culombe?
A. Approximately six to seven hours.

Q. Did you obtain a history of Culombe? A. I did.

Q. From whom or where did you obtain a history of Culombe? A. I obtained a history from the accused himself, I obtained a history and reviewed the records of his previous hospitalizations; I spent approximately an hour to an hour and a half with his mother and his aunt to fill out the history, as well as reviewing the E.E.G. report - the brain wave report - and the psychological tests.

Q. Doctor, as a result of your review of this case and your examination of the defendant Culombe, will you tell the Court and the jury what your opinions were and what conclusions you arrived at? Tell them what your examination was. In other words, in your own way tell us what you did. A. My examination was a psychiatric examination to rule in or out a psychiatric process. The psychiatric examination also included obtaining an impression of his intelligence, which I found to be very low. My professional opinion is that Mr. Culombe is feeble minded - an adult with mental deficiency without psychoses and fits into the moron classification.

Q. What mental age did you find him to have, in your opinion? A. Between nine and nine and a half years.

Q. And his present age is what? A. Thirty-three.

Q. What is the normal I.Q. of an individual?
A. Well, the normal I.Q. runs between ninety to one hundred and ten.

Q. And by I.Q. you mean Intelligence Quota?
A. That is right.

Q. And what did you place the Intelligence Quota on Culombe at? A. At sixty.

Q. Sixty? A. Yes, sir.

Q. Did you find out whether he could read or write? A. It was my impression he was unable to read and write anything besides his name, which he could print, but misspelled at times.

Q. What conclusion did you come to regarding his judgment? A. In my opinion his judgment was remarkedly impaired.

Q. Did you recommend any further tests to be given Culombe? A. Yes, I recommended a battery of valid psychological tests to determine his true mental age and his Intelligence Quotient.

Q. And what was that test and who was it given by? A. The test was performed - I believe the Court appointed as psychologist Mr. Ibelle from Norwich State Hospital. The tests performed were the Stanford-Binet Intelligence Scale and the Wechsler-Bellevue Intelligence Scale.

Q. And what relation does the psychologist have to the field of psychiatry? A. It has a very important relationship in that a clinical psychologist is an expert on psychology tests being given - as his intelligence tests - and gives a very valid picture and true picture of a man's basic intelligence. They also perform a personality test such as the Rorschach Ink Blot test, which gives a picture of the man's underlying personality and emotional structure. They are used as a member of a psychiatric team in forming a more valid opinion of what is going on in the individual.

Q. Now, Doctor, I had asked you in conference about matters relative to the age of a person at sixteen, - do you recall that? Let us go into that field with defendant for the Court and jury. A. In the matter of intelligence there is an established scientific fact that the top chronological age for the learning processes is between fifteen and six-

teen, and we interpret these tests to determine the intelligence quotient by taking the chronological age of an individual at fifteen or sixteen, depending on what tests are used. In other words, even though an individual is thirty or forty, for testing purposes the chronological age used in the formula to determine the intelligence is at the top at fifteen.

Q. And why is that age of fifteen used, regardless of the age of the person? A. Because, through testing they have found that the learning process, the inate learning process stops formulating completely at that age, even though a person can learn from experience beyond that age, the purposes of the test are set up to test the basic inate intelligence and not in experience.

Q. Well, Doctor, in summing up everything, what were your conclusions as to this individual, Culombe, insofar as his mental status is concerned? A. It was my opinion he was a moron with a mental age of between nine and nine and a half; he has an Intelligence Quotient of sixty, and his actions fitted into that psychiatric classification.

Q. And about his judgment? A. His judgment is impaired.

Q. How about his capacity in his mind - properly reasoning things out in a normal way? A. An individual of this intelligence acts purely under stress as to reasoning power. Even though not psychotic, he is of adult age with a child's mind.

MR. McDONOUGH: Thank you very much, Doctor..

THE COURT: Cross examination, Mr. Bill?

CROSS EXAMINATION BY MR. BILL:

Q. Doctor, did he comprehend the questions that you asked? A. Yes, and no.

Q. Well, you please explain what you mean by that?
A. He comprehended the reason that I was talking to him and examining him but some of the questions that I asked him to test his intelligence, he showed impaired memory and impair fund of general information.

Q. As a matter of fact he had a good memory, didn't he? A. For certain things he had an excellent memory, mostly pertaining to his personal affairs, but as to memory of general information he had a - I would say impaired.

Q. Did you inquire of him as to his occupation and employment? A. I did.

Q. And did you learn from him that he had been steadily employed for the last three and a half years, at least? A. I did.

Q. Did you learn from him that he was making anywhere from seventy to seventy-six dollars a week?
A. He told me eighty-five.

Q. Eighty-five? A. Yes.

Q. You learned that? Did he tell you that he had maintained a wife and two small children and a home?
A. He did.

Q. Did that have any- was that of any importance to you in coming to your conclusion? A. It was.

Q. And what importance? A. The importance that he was able to make a somewhat adequate occupational adjustment over the last three years.

MR. BILL: I think that's all.

THE COURT: Anything further, Mr. McDonough?

MR. McDONOUGH: Yes, Your Honor.

REDIRECT EXAMINATION BY MR. McDONOUGH:

Q. What type of employment did he tell you that he was engaged in, Doctor? A. I believe for the last three years or so he was in - working as a platform hand, doing physical labor, putting packages and things on trucks and unloading trucks.

Q. You would not say that that required any mental effort, would you, that kind of work? A. Well, from my experience I feel that it takes a man of low mentality to hold that type of job over a period of three years.

Q. Now, Doctor, going back to the question that you answered before, what is your opinion of his mind and capacity to reason out and understand things?

A. Very childlike.

Q. In other words, would that apply to this question, his capacity of mind to reason and enable him to judge of the nature and character and consequences of his acts, would you term it very childlike? A. I would.

MR. McDONOUGH: That's all, Doctor. Thank you.

MR. BILL: Just a minute, please.

RECROSS EXAMINATION BY MR. BILL:

Q. You say that he was not psychotic? A. That is correct.

Q. And what does that mean, Doctor? A. Psychosis is a mental classification of severe mental illness connected with a complete break with reality.

Q. That is insanity, isn't it? A. That is correct.

Q. So if he is not psychotic he is not insane, is that correct? A. That is correct.

MR. BILL: Thank you.

MR. McDONOUGH: Thank you, Doctor. That is all.

Will you need the doctor any more, Mr. Bill?

MR. BILL: No.

MR. McDONOUGH: You are excused, Doctor. Mr. Ibelle.

BERTRAM PATTERSON IBELLE, a witness called by the accused Culombe, having been sworn by Mr. Egan, testified as follows:

THE ASSISTANT CLERK:

Q. Will you state your first name and address, please?
A. Bertram Patterson Ibelle, Elmwood.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Ibelle, will you please keep your voice up? What is your profession? A. I am a psychologist, sir.

Q. What is a psychologist? A. A psychologist is a person who, in clinical psychology, the branch that I am working in, studies the thinking, the thought organization, and so forth.

Q. The what? A. The thinking of an individual.

THE COURT: Keep your voice up so that they can all hear you.

Q. Now, tell us your educational background, and hospital, or staff or clinical connections in this field, Doctor?

A. I received my Bachelor's Degree in 1950, in psychology, from Dartmouth College. My Master's Degree from the University of Connecticut in 1952. I completed the academic requirements for the doctorate at the University of Connecticut in 1952. I completed the academic requirements for the doctorate at the University of Connecticut, about two years ago. I am presently engaged in pilot research leading to the degree of Doctor of Philosophy. Interned at Norwich State Hospital, in clinical psychology for a year and a half and I was chief staff psychologist at Hart-

ford Hospital for three years. Presently I am senior clinical psychologist at Norwich State Hospital. I have been a laboratory instructor in psychology at the Hartford branch of the University of Connecticut. I have been a lecturer in psychology at Springfield College.

Q. Mr. Ibelle, were you appointed by this Court to represent both the State and the defense in an examination of the defendant Culombe? A. Yes, sir.

Q. In accordance with that order did you make an examination of Culombe? A. I did, sir.

Q. Now, before making the examination of Culombe did you receive a history from anyone? A. Not from anyone. The only thing I received was a request to examine Mr. Culombe, and some mention was made of the question of his intelligence.

Q. In other words, you got nothing about any other hospitals to start you off, what they had found, did you? A. No, sir.

Q. You started cold? A. That's right.

Q. Is that right? A. Yes.

Q. And where did you examine him? Tell us the type, the manner of your examination and your conclusions, and you may refer to your notes. A. I saw Mr. Culombe for the first time on March 30th, 1957 at the Hartford County Jail. I saw him again on April 1st, 1957. I administered two standard intelligence tests of the type that are given individually in a face to face contact. The first of these was the Stanford-Binet intelligence scale, form L. The second was the Wechsler-Bellevue Intelligence Scale, form I. As additional tests, just to help confirm the results of the first two, I did a good enough analysis of Mr. Culombe's figure drawing and I administered a Rorschach ink block test.

On the basis of this examination I believe that Mr. Culombe is of defective intelligence, he can best be classified in the middle grade moron range or, according to the present diagnostic classificatons moderately defective.

Q. How did you find his behavior? A. I felt it was quite child like.

Q. Child like? A. Yes, sir.

Q. Now, was he informed by you that you were not making this examination as a person committed to his defense - in other words, that you were assisting the defense? Did you inform him of your status? A. Yes, sir, I did.

Q. That you were disinterested as a court appointed individual? A. Yes, sir.

Q. Representing the State and the defense?
A. Yes, sir.

Q. And what was his reaction to that? A. He continued to feel that in some way I was a protector of his, and on several occasions thanked me for all I was doing for him, and so forth.

Q. And did he understand at that time that the result of your examination might be against him? A. I made this point with him several times. I am not sure whether he clearly understood that or not.

Q. But he looked upon you as a sort of a protector?
A. Yes, sir.

Q. What did you find his intelligence to be?
A. As I said before, sir, in the defective range.

Q. Mildly or grossly? A. Mildly - moderately. I am sorry.

Q. What? A. Moderately.

Q. How did you find his thinking? A. Very stere-

otyped, not at all profound, very limited ability to make any kind of abstractions.

Q. How did you find his vocabulary? A. His vocabulary perhaps was one of his strongest points. That still was low.

Q. Low? Would you use the word limited?
A. Limited, yes.

Q. How about his literacy? What did you find that to be? A. I felt that he was illiterate, sir.

Q. Now, the Weschler-Bellevue test that you gave him - A. Yes, sir.

Q. What rating did he acquire in that? A. I believe his full scale intelligence quotient there was 64.

Q. And what is the normal intelligent quotient?
A. 90 to 110, sir.

Q. Now, in the Weschler-Bellevue test where he achieved a rating of 64 - A. Yes, sir.

Q. According to the norms, what score is this in accordance with the percentage of our general population?
A. He would be in the lowest two percent of the general population.

Q. Lowest? That two percent of all the population on that score? A. That's right.

Q. That he was in? A. At that score or below.

Q. Now what did the Rorschach test show?
A. It showed stereotyped thinking, very dully plodding kind of thinking, weak integrative ability.

Q. What do you mean by that? A. Again I would like to fall back on the - the lack of profoundity in his thinking, the lack of real organization. He had no percept in

response to these cards that were in any way unique or really original, showing any great amount of organization.

Q. How did you find his mental equipment to be in relation to coping with the normal exigencies of life?

A. I thought that he was not able to cope with the normal problems of every day existence.

Q. Because of his mental ability, is that right?

A. Yes, sir.

Q. In your summary what type of minded individual did you find him to be? A. May I read my summary?

Q. Yes, you may. A. All testing is consistent in indicating that this is clearly a feeble minded individual whose adjustment, both personal and social could be at best marginal. His performance is that of a middle grade moron and he can be properly labeled moderately defective. In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. Culombe is also possessed of that character defect so frequently found in individuals of low intellectual caliber. He is enormously suggestable. Thus, lacking in the capacity for sufficient critical judgment his manner of thinking, his pattern of living and his way of behaving can all easily be influenced by those persons closest to him. When the influences are benign he gets along. When the opposite obtains he is in trouble.

Q. Mr. Ibelle, what you have - you furnished me a copy of what you - your notes? A. Yes, sir.

Q. Sometime ago, isn't that correct? A. Yes, sir.

Q. You also furnished them to the State's Attorney, did you not? An exact copy of what you furnished to me?

A. That's right.

Q. So that both the State and myself have had the benefit of your examination and conclusions? A. Yes, sir.

MR. McDONOUGH: Thank you, that's all, Mr. Ibelle.

THE COURT: Mr. Bill?

MR. BILL: No questions.

THE COURT: You may step down, Mr. Ibelle.

MR. McDONOUGH: Just a moment, please?

BY MR. McDONOUGH:

Q. I show you this, Mr. Ibelle, and ask you if that is a copy of the report that you referred to and that you gave to the State's Attorney and to myself? A. This is a copy of one that I gave to you, this is not the original.

Q. Did you give the State's Attorney the same? A. Yes, sir.

MR. McDONOUGH: May it be marked for identification, Your Honor.

THE COURT: It would be 8 for identification, in case No. 21,666.

MR. McDONOUGH: I think that I will offer it as a full exhibit.

MR. BILL: No objection.

THE COURT: May be Exhibit 8.

(Copy of report of Mr. Ibelle, received in evidence and marked "Defendant Culombe's Exhibit 8").

MR. McDONOUGH: Mr. Lynch.

WILLIAM S. LYNCH, a witness called by the accused Culombe, having been sworn by Mr. Egan, testified as follows:

THE ASSISTANT CLERK: Will you state your full name and address to the Court, please? A. William S. Lynch, Fall River, Massachusetts.

Q. Will you state your full name and address to the Court, please? A. William S. Lynch, Fall River, Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Lynch, what is your occupation?
A. Superintendent of Schools.

Q. Of the public schools in Fall River, Massachusetts?
A. Of public schools in Fall River, Massachusetts

Q. And you have been for how long? A. This is my twelfth year.

Q. Mr. Lynch, by subpoena have you come to this Court and brought with you the school and attendance records of Arthur Culombe? A. Yes, sir.

Q. And were those records and are those records under your jurisdiction and kept in your custody?
A. Yes, sir.

Q. Have you them with you? A. Yes, sir.

Q. May I see them?

Q. Showing the witness a file containing four cards and two sheets of paper, I ask you what it is, Mr. Lynch?
A. These are records - these are report cards of Bertram Culombe. This is a school clinic record. This is a teacher's report in a class for mental defectives. This is a statement of attitudes and other characteristics of Bertram Culombe made - by whom I don't know, since it is old, but is a form that was in use some years ago in our schools. This is a school clinic record of the Third School Age of Bertram Culombe.

Q. Are you acquainted with that type of record in your school system? A. Yes, sir, they have changed a little as years have gone by, but they are of the sort that are still under use.

Q. And you are able to interpret such records?
A. I believe so.

Q. Would you explain to us those records you have just discussed? A. This report card begins with 1931 and runs through a matter of nine years to 1939 - the report cards are 1931 to 1939, and naturally these records would be dated in that period.

MR. McDONOUGH: I offer it in evidence, Your Honor.

THE COURT: Is there objection?

MR. BILL: No objection.

THE COURT: It may be marked exhibit 9 in case number 21,666.

(Folder containing school records of Culombe marked Defendant's Exhibit 9 in case number 21,666.)

Q. Now, Mr. Lynch, is it possible for you to interpret from these records - you said you can? A. I believe I can.

Q. I will show you a white card that is numbered 97015 and ask you what it is and what it shows?
A. This would be what we call an old cumulative record card we would keep the progress and the transfers on of each and everyone of our students. It is less elaborate than the ones we use today.

Q. Just go right through it, please. A. This particular card shows that George Culombe, who was born on February 28, 1924, the son of George Culombe, a laborer, and who resided at first at 137 Brownell Street -

MR. BILL: I object to this - George Culombe? I don't understand.

THE WITNESS: I said son of George Culombe.

THE COURT: You did say George. Do you want to correct it for the record?

THE WITNESS: I am sorry. This is the card of Bertram Culombe and I was deciphering the name of the parent - George -

THE COURT: As long as you have corrected it go ahead.

THE WITNESS: Then on the back of this card there is the statement that shows that he entered St. Joseph's School in 1931, September, and his age at that time was seven years and six months; that he did poorly in reading, language, spelling, writing, arithmetic, music, drawing; that he was present one hundred and twenty-five days during the year; that his health was fair. It shows too that the next year he started in St. Joseph's but transferred to one of the public schools, the Borden School, where he was placed in an ungraded class in November, 1932. He was placed in a special class - he was then eight years and six months. He did poorly in all the subjects mentioned. He continued at the Danforth School where special classes were housed.

Q. What were the special classes? A. They are the classes for slow learners or mentally retarded children.

Q. Go ahead. A. He spent the school year of 1933 at the Danforth School, again doing poorly in all subjects. In 1934 a similar record. In 1935 instead of P's and X's, he had D's.

Q. What are P's and X's and D's? A. That would be very poor and X would be poorer than P and D would be kind of a little above that.

Q. Still poor? A. Yes, and that continued in 1936 and 1937. In that year - in the next year 1939 those classes were moved to the Ruggles School and the record of D's continued.

Q. Is that a special school? A. That is our current school for slow learning boys.

Q. Go ahead. A. That completes that card, sir.

Q. We have a general one and you won't have to go through them, that is, one by one, but have you explained what P's and the D's and what the X's mean, and refer to the school? A. This is a card which is pretty much a copy of the other card using a different set of files, so that the achievement record which I read from the other card is the same on this. P's mean poor, of course, X's mean extremely poor and D's is a cut above P - it is still poor, but roughly equivalent to barely passing. Is that what you want, sir?

Q. Yes, Mr. Lynch, thank you. Here is a large white card - "Teacher's Report Card for People in Class for Mental Defectives". Can you explain that card and interpret it?

A. This is a card on which the teacher in what we call the special classes keeps various records about the child. There is the question at the beginning of the identification, birth, parents, date of entrance. Then there is here the academic work, report of the progress in each subject, and it says there: first year, grade one, poor work in all subjects. Second year, grade one - poor work in all subjects; third year, grade one - poor work in all subjects; fourth year, grade one - was at Lyman School that year and returned March, 1939. There is another note - sent back to Lyman, February, 1940 for larceny.

On the other side of the academic work there is a report on manual work with report of progress. It says for the first year, poor; second year, poor; third year, poor; fourth year, fair. There are no other blanks filled in on that card.

Q. I show you this sheet and ask you what it is?

A. This is a sheet, the original source of which I am not sure. It is, however, a sheet in which is the character traits and they are listed as - with adjectives - various adjectives - to describe the traits - those are listed and are underlined for that trait or that characteristic which more

nearly describes the trait. It says, for instance: "Address and manner", and under that are a number of descriptive phrases - repellent, bearable, makes fair impression; likable, very pleasant. Underlined is "bearable".

The next is "Attitude". It goes on "uninterested, willing to be interested, attentively interested, enthusiastically interested", and underlined is "[illegible]nterested".

Q. The underlining means what? A. That means that somebody on the staff, probably the teacher, at sometime - this is not dated - was asked to submit this sheet filled out about this boy. It is identified -

Q. Then the underlining means what? A. That in the opinion of some of the staff, these were the expressions which more nearly identified the traits listed.

Q. Go onto the next. A. Then it says "Character - dishonest, open to temptation, fairly reliable, generally trustworthy, absolutely trustworthy" and underlined is "dishonest".

Q. Go onto the next, please. A. "Cooperative ability - obstructive to others; frequently cannot work with others; cooperates moderately; can work with others; goes out of his way to assist others" and underlined is "frequently cannot work with others".

Q. The next. A. "Disposition - grouchy or surly, tempermentally bad natured, fairly good natured, generally pleasing, very pleasant, cheerful and well liked". Underlined is "tempermentally bad natured". The next one is "Industriousness - lazy, does enough to get by, fairly good worker, persistent on assigned work, hard worker, does extra work". Underlined is "lazy".

"Initiative - must be told, depends greatly on others, moderately aggressive, self starter on original work". Underscored is "must be told".

The next one is "judgement - has poor sense of values, jumps at conclusions too quickly, tries to reason things out, has common sense, has unusually good judgment". Underlined is "has poor sense of values".

"Leadership - is a follower, leads others with difficulty, influences others fairly well, can organize and direct others, leads others well". Underlined is "is a follower".

"Native capacity - dull, learns after many repetitions, learns on repetition, learns fairly quickly, bright, grasps ideas on statement, very bright, anticipates new ideas". Underlined is "dull".

There is a marginal note that says "This boy was sent to Lyman School - 1938 - returned in 1939 much improved. Willing to do as much as possible but accomplishes little."

Q. Now, Mr. Lynch, I show you this last white sheet headed, "Department of Mental Diseases - School Clinic Record - Correlation of Chronological Mental and School Age." Name - Culombe, Bertrand - April 13, 1936 - number 2433 - and there is a chart with rises and levels there. Can you explain that to the Court and jury? A. I think so. This is a form which the schools of Massachusetts use. The form itself is a State form and we use this form in part because the schools to which we refer are what we call our special schools and are in part State paid for and in order to receive reimbursement we have to meet certain standards, and so forth so we use many State forms.

This particular form reveals that on April 13, 1936 Bertram Culombe was twelve years, two month old. That was his chronological age. At that time his mental age was six years and eight months. It reveals further that for the level of achievement at his chronological age he should have been in the seventh grade. The sheet indicates that he was reading on a level of kindergarten; that his arithmetic was on the level of the first grade; his spelling on the level

of kindergarten, his writing and language on the level of first grade. The sheet reveals an I.Q. of fifty-five.

Q. Now, I show you this card, which is the final portion of that exhibit and ask you what that is? A. This is a card which is a psychologist's report. In placing students into the so-called special schools, we are required by law to have a psychologist's report. At the time this report was made, the State was doing the psychological work, and the examining physician, whose name is here is - I know him by reputation and by hearsay and by other records to have been a State Psychologist. This card, of course, was filled out before I was Superintendent of Schools in Fall River, but the name of E. S. B. Woodward, M.D., is a familiar one in our records, and I have known through other people this Doctor Woodward.

This is the report on Bertram Culombe who was at that time at the age of twelve years and two months; place of birth, Fall River, Mass., mental age - this is very much the same as this previous one - mental age six years, eight months, whose intelligence quotient was fifty-five.

Q. What was his actual age? A. At that time twelve years and two months. These two were apparently made at the same time. It was probably part of this record. He was five and a half years retarded schoolwise. The report goes on to say under recommendations: "This boy has been in special class for about three years. At his present mental level we could expect him to be doing some work in grade one but he does very little. He has not learned to read and is more than four years retarded. If he remains in public school he should also remain in special class where he will have some personal coaching and be able to do as much as he can, especially in manual and industrial training. With this degree of retardation he urgently needs institution training and protection. This is especially to enable him to get work after he leaves school. It will be difficult for him to keep a job and adjust well in the community. He is

rather peculiar, might be described as nervous; has defective speech, and possibly defective vision. Needs denistry. He is immature for his age; looks dirty and neglected; in fact, we found him in rather wretched condition, and one is very sorry for him. He is apparently well aware of his defects. The home conditions are not favorable. The institution training would be a kindness and a great benefit to him. Social supervision."

Q. That completes the file, Mr. Lynch? A. Yes, sir.

MR. McDONOUGH: That is all.

MR. BILL: No questions.

MR. McDONOUGH: You are leaving for Europe next week?

THE WITNESS: For South America.

MR. McDONOUGH: Have a nice trip. You will have to leave these school records here and they will be returned.

THE COURT: We will stop here, Mr. McDonough. You may escort the accused from the courtroom.

(Accused escorted from the courtroom at 11:30)

THE COURT: The alternates may retire to their room and the jury to theirs.

Short recess, Sheriff.

(Recess was taken at 11:30 A.M.)

JUNE 21, 1957. 11:50 A.M.

THE COURT: You may bring up the accused, Sheriff.

(Accused present)

THE COURT: Now may I have the alternates and the jury, please?

(Jury and alternates present)

THE COURT: You may proceed.

MR. McDONOUGH: Doctor Hraba.

JOHN HRABA, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. John Hraba, M.D.

Q. And your address? A. Wrentham State School, Wrentham, Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor Hraba, you are a practicing physician in the State of Massachusetts? A. I am.

Q. And you are connected with the Wrentham State School? A. I am assistant superintendent of Wrentham State School.

Q. What type of school is that? A. A school for the mentally deficient.

Q. Doctor, did you bring, by virtue of a subpoena, with you the records kept in the due course of business of that institution regarding Bertram Arthur Culombe?
A. I did.

Q. May I see them Doctor, please? And what year or years does that cover? A. This covers the years 1941 - October 29th, 1941, to May 6th, 1942.

Q. Thank you, Doctor, and this record contains what, Doctor? Will you look through it without reading anything from it? A. This record contains information in regard to his admission, his examination, his behavior and his progress during his stay at Wrentham State School.

Q. And his treatment? A. And his treatment.

Q. And the conclusions as to his mental status?
A. To a certain degree.

Q. And it shows staff reports and meetings?
A. It does.

MR. McDONOUGH: I offer it in evidence, Your Honor.

THE COURT: Is there any objection, Mr. Bill?

MR. BILL: May I see it?

THE COURT: Surely.

MR. BILL: No objection.

MR. McDONOUGH: May it be marked, Your Honor.

THE COURT: May be marked Exhibit 10 in No. 21,666.

(Record of Wrentham State School received in evidence and marked "Defendant Culombe's Exhibit 10")

Q. Showing the witness Defendant Culombe's Exhibit 10 I refer to a picture, a photograph on the inside of the folder. Is that what purports to be a photograph of Culombe?
A. It does.

Q. Have you other records there, Doctor, relative to Culombe? A. This is the record of the school tests.

Q. Record sheet for the school tests? What is the other? A. And a report of the Department of Mental Health of the Commonwealth of Massachusetts.

Q. And what else have you there? A. I have further some summaries on Bertram Culombe and some correspondence in regards to him,

Q. And this is the complete - makes up the complete file? A. Makes up the complete record.

Q. May I have that folder? A. Yes.

Q. So the yellow empty folder that I now have in my

hand makes up the record sheet for school tests, the report to the Department of Mental Health and the summary of the psychiatric examination of Culombe? A. Yes, sir.

Q. Is that correct, Doctor? A. Yes, sir.

Q. And correspondence relative to it? A. Yes, sir.

MR. McDONOUGH: I will place them all in one envelope, noted file No. 1940-49, up in the righthand corner No. 5536, and offer it in evidence as a full exhibit.

MR. BILL: No objection.

MR. McDONOUGH: May it be marked, Your Honor?

THE COURT: May be marked Exhibit 11, in No. 21,666.

(Folder containing data from Wrentham State School received in evidence and marked "Defendant Culombe's Exhibit 11")

MR. BILL: What do you call that, Mr. McDonough?

MR. McDONOUGH: This is marked "Psychiatric file" - let's leave it that way.

Q. Doctor, are you acquainted with a Miss Ruth Prouty? A. I am.

Q. Who is Miss Prouty? A. Miss Prouty is our official psychologist of the institution.

Q. Do you know how long she has been connected with the institution? A. I believe that she has a service record of thirty-five years in our institution.

Q. And that institution is a state maintained institution? A. It is.

Q. For mental defectives? A. It is.

MR. McDONOUGH: Thank you, Doctor. That's all.

THE COURT: Any cross examination, Mr. Bill?

MR. BILL: No, Your Honor.

THE COURT: You may step down, Doctor.

MR. McDONOUGH: Doctor, you are excused, and thank you very much. Mrs. Dion.

JULIA DION, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your name? A. Julia Dion.

Q. Address? A. 48 Linden Street, Fall River Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mrs. Dion, will you try to keep your voice up so that all the jury can hear you. Mrs. Dion, are you related to Arthur Culombe, the defendant in this case?
A. Yes, sir.

Q. And what is your relationship. A. An aunt through marriage.

Q. And have you been in close contact with Arthur Culombe throughout the years of his life? A. Yes, sir.

Q. Keep your voice up, please. And what have those contacts been? A. Well, they have been sort of pitiful at times.

Q. No, please. I mean, tell us the nature of your relationship with him through the years. When did they begin and what was the type? Visiting your home or you visiting him, or what? A. Well, he was - I remember first, he was about two and a half years old. That was just previous to my being married to his uncle.

Q. Go ahead. A. And at the time I visited his mother's home, which was on Cottage Street, in Fall River.

It was the time he was in a tantrum, sort of a tantrum she was having with him.

Q. What do you mean by a tantrum? A. He was very cranky and crying and screaming and stretching out, and the mother was trying to pacify him.

Q. Two and a half years old? A. About two and a half years old.

Q. Go right on. A. So at that time she said she called the doctor in. I don't recall the doctor's name right now, and he gave her something to soothe him and quiet him.

MR. BILL: Your Honor, I think that we ought to keep somewhere within the rules, I am letting every in, apparently, but what somebody said is hearsay.

Q. Did the doctor give the baby something?
A. Yes, sir.

Q. Do you know whether or not that doctor is alive today? A. I don't know, sir.

Q. All right, you told us about that incident. How closely were you in contact with the mother and the child since then? A. Through the years, the various years of his younger childhood I had him at my home at different times and I have seen him in his own home.

Q. Have you cared for him at times? Have you taken care of him? A. Yes, I have.

Q. Under what conditions? A. There was one time that his mother was ill, he was about four and a half years old, and the grandmother was supposed to take care of him but she was making a mission at the time, and I went down to help out. It was in Fall River, and it was about seven o'clock at night and he started to cry and scream and different things. I thought maybe he was hungry, I tried to

feed him. That didn't seem to appease him. And his grandmother came back from the mission about three-quarters of an hour afterwards and she took -

THE COURT: Don't tell anything she said, but tell what she did.

A. She took and she made him up some - I believe it was some peppermints, or something, in a bottle which would put him to sleep, and she says "I don't know what's the matter" -

THE COURT: Don't tell what she said. Just tell what she did.

A. She had a bad time with him for the rest of the evening until about ten o'clock.

Q. He was about four and a half years old at that time? A. That's right.

Q. During the period of that age, four and a half, say for the next year or two years did you see this little boy very often? A. Quite frequently.

Q. And what was his general physical condition and how did he act, so far as you could see? A. In what way do you mean, how did he act?

Q. Well, put it in your own way, just as though I was visiting your home. How did Arthur act? A. Well, he didn't seem to be troublesome in certain ways, but he didn't seem to have too much interest in anything.

Q. Tell us about his manner of eating, as you observed it, as a young boy. A. When I had him visiting me, this was in the country where I had a summer place, he stayed a few days there and he didn't seem to want to eat like the rest of the children. He used to play with it more than eat, and throw it around. I would try to correct him and say "Use your spoon", or "use your fork", and he sort of pushed it away. He didn't like you to correct him. I said "Well" -

THE COURT: Don't tell what you said. Just what you did.

Q. How old was he - how long did he keep up that manner of eating, pushing his food around, throwing it away? A. The three or four days that he was with me I was pretty discouraged, I couldn't seem to make him happy in any way. I tried to interest him, take him to the beach. I couldn't leave him because he would go out over his head.

Q. He would what? A. He would go out over his head.

Q. What do you mean. he would go out over his head? A. Walk out in the bay. It was a seashore place and he would go right over his head. Sometimes he would go with his shoes on.

Q. We will get beyond that stage. Let's get up around ten or eleven years of age, nine years of age. Were you in a position to observe him during those years? A. Yes, sir.

Q. What did you observe about him? A. He didn't have no pride about the way that he would dress, or he didn't seem to care whether his clothes were buttoned up or his stockings were hanging. I tried to correct this, and even in cold weather when it was freezing cold he would go out with his coat wide open, he wouldn't even button up the coat, or anything like that. We had trouble with him trying to make him do things.

Q. Do you know anything of the manner of his putting on his shoes up until the time he was ten or eleven years old? A. Yes, sir.

Q. What do you know about that? A. Well, while I was taking care of him in his own home, Mrs. Culombe was sick at the time, the children were getting ready for school. There were two other children there and they came out and I went in to see what was delaying Bert, and he was

in there on the floor putting on one shoe. I said "That's on the wrong foot." So he changed it, but he didn't have the mate of the shoe that was supposed to be with that shoe, on. So the other children were quite angry, they wanted to go out to school, so I went back in and I found the other shoe and put it on him and I said "Don't you know that this is wrong?" He said "It's all right." Meaning he put the shoe on the wrong foot? A. Yes, sir.

Q. Do you know whether that continued, whether that was merely that time or whether he was in the habit of doing it? A. His mother said that he did it quite frequently.

Q. You can't tell what his mother said? A. He did it quite frequently.

Q. He did it quite frequently? Do you know that?
A. Yes, sir.

Q. Put the shoes on the wrong feet? A. Yes, sir.

Q. How old was he before he found out how to put his shoes on? A. I'd say in the category of eleven.

Q. About eleven years old? Do you know that from observation the general condition of his health as a boy, say from ten years old on? A. Well, he wasn't intelligent, interested in school work, or he wasn't too fussy about his appearance at any time, and he was a problem to the family.

Q. How about other children? A. Well, I tried to have him associate, bring him in my home to play with my children. He didn't like the same things at all. You could not interest him in writing, or studying, or trying to copy. I tried myself quite seriously to teach him to follow the lines on the alphabet, A or C, or write the word "cat". He didn't seem to be able to follow it. I tried to make him trace it. He wasn't interested.

Q. Tried to make tracing? A. Yes.

Q. Could he do it? A. No, sir.

Q. How long did you have this boy under observation? How long were you, during his life before he came to Connecticut, in a position to observe him? A. About twelve years.

Q. About twelve years of his life? A. Yes, sir.

Q. And is that what you have already told us, what you observed about him in general? A. Well, he was a good natured child, but he would follow people, he would follow the other children. If you would send him to school he might start at eight o'clock and might get to school around 10:30 or eleven o'clock.

Q. You can go ahead. A. He would stop along the way. If he met somebody he would go with them - school wasn't important. They could take him and go off for the day and it was quite a problem following him.

Q. Who would take him? A. Anybody he would meet - any child or anybody he would meet he would follow and go, that's why he lost quite a lot of school work.

Q. You said he was a problem. What do you mean by that? A. Well, to me the mother always seemed excited and worried about the boy. He was everlastingly getting into one thing or another.

Q. What kind of home did he have? A. Fair - a comfortable home.

Q. His father worked? A. His father worked.

Q. The children were in school? A. Children in school.

Q. Did the family attend church? A. Yes, sir.

Q. Was he any different than the other children? A. Yes, sir.

Q. In what way? A. Well, when they went to Sunday School he would go off somewhere most of the time.

Q. Was he different from the other children in the neighborhood - was he different from children in general? A. Yes, sir.

Q. In what way? A. He never used to get into games with other children, but he liked to tag along and follow the children and many of the children didn't want to play with him because they felt he couldn't keep up with them and play their games.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

(witness excused)

ANGELINA CULOMBE, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Angelina Culombe.

Q. Your address? A. Angelina Culombe.

Q. You may be seated.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Mrs. Culombe, it may be a little difficult. You have a fan in back of you and this is a large courtroom and these ladies and gentlemen on the jury have got to hear you. Will you try to keep your voice up. You are the mother of Arthur Culombe, the defendant? A. Yes, sir.

Q. When was he born? A. He was born February 28, 1924.

Q. How many children have you? A. I have five children.

Q. Arthur is how old with relation to the others?
A. There is one older brother than him - about thirty five years old.

Q. You have one older child? A. He is the second one, and three others after him.

Q. Where were you living in Fall River when Arthur was born? A. Well, I used to live on Lindsey Street with my mother.

Q. What was your husband doing? A. He used to do labor work - he was a laborer - carpenter and roofer.

Q. I didn't hear you? A. Labor work.

Q. Who does he work for? A. He used to work for Mr. Pavey in them days.

Q. When Arthur was born was he a nine month's baby? A. No, he was not.

Q. What was he? A. Eight months.

Q. An eight months' baby? A. Yes.

Q. Where was he delivered? A. In the general hospital.

Q. In Fall River? A. Fall River, yes.

Q. Who was your doctor? A. Well, I can't remember his name. That's a long time ago.

Q. Was he your own physician or an intern?
A. No, he was born without instruments.

Q. He was born without instruments, but was this doctor your own doctor or a hospital doctor? A. He was the house doctor - the intern.

Q. What do you mean he was born without instruments? A. Well, he was born when they didn't expect him to be born - like an accident.

Q. Did you have any difficult at birth - at his delivery?
A. Yes, I did.

Q. Tell the jury. A. Very weak afterwards.

Q. Go ahead and tell us in your own way - tell us what happened at the time of his birth. A. When he was born the doctor told me he was mental - he said he had an injury in the head on his brain and he was going to be mental all his life.

Q. What doctor told you that? A. The doctor that delivered him, who was an intern from the general hospital, and there was a baby specialist with him who came in and told me he is going to be mental.

Q. Keep your voice up. This is important.
A. He says he has an injury in his brain.

Q. How long did you stay in the hospital after Arthur was born? A. I stayed about ten days.

Q. And then did you go home? A. I came home to my mother's house.

Q. Now, how was Arthur as a baby? A. Well, from then he used to have crying spells after that.

Q. After what? A. After birth, yes, he used to cry something awful, there was nothing would quiet him down. I used to feed him, but he wouldn't stop from crying. I used to call the doctor in the night - two o'clock after midnight. I had the doctor come down to my house.

Q. Who was the doctor? A. Dr. Lewis.

Q. Is he alive now? A. No, he is dead.

Q. How long has he been dead? A. Going on four years.

Q. You used to call Dr. Lewis? A. Yes.

Q. In the early morning hours? A Yes.

Q. Why? A. The doctor told me -

Q. Why did you call the doctor? A. Because he used to have those crying spells. He couldn't sleep. Then when he got older he would stand up in his crib and scream and pull his hair and would go in a tantrum and throw himself on his stomach in the crib, and I would call the doctor in the night, and the doctor told me he was mental. He had a mental illness.

MR. BILL: I object to what the doctor told her.

MR. McDONOUGH: Of course, I can't produce the doctor.

THE COURT: That isn't the objection. The objection is to some of the comments as to what the doctor said. I am sure you don't claim it, Mr. McDonough.

MR. McDONOUGH: No, I do not, Your Honor. It is difficult to avoid.

MR. BILL: I realize it is, and I don't want to stop her from telling her story, but we have to keep to some of the rules of evidence. You did ask her what did the doctor say.

Q. Just go along in your own way. You say the doctor came to the house in the early morning hours. Now keep your voice up. You are only getting this one chance to tell the jury.

THE COURT: I think the fan should be shut off to hear her testimony, and I think the jury will agree with me.

Q. How often did the doctor come to the house? I mean under those conditions and at those hours? A. He came up to my house abuot ten or fifteen times.

Q. How old was the baby? How long did that continue - through what age? A. Well, when he was about a month old.

Q. And how long did that condition continue? How old was the baby when that stopped? A. He was almost two years old, and then he was still doing that, and he used to go into a tantrum.

Q. Tell us about the time from when he was two - how he acted? A. He used to cry all the time; many a time there was no stop to it. I couldn't stop him no matter if I fed him, - he wouldn't stop.

Q. Did the other four children act that way? A. No. They was all different.

Q. Was there any treatment given him by the doctor? A. There was, but he says there was no cure for it.

Q. You can't tell what the doctor said. Let us go up to the time he was five, six and seven. Did he still act that way? A. After he was born?

Q. Yes. A. Yes.

Q. How did he act when he was five or six or seven years old? A. Then he got so he got in danger all the time. He was always in danger.

Q. What do you mean? A. Well, I wouldn't let him go out; he would go out in the middle of the street to get run over. Then when he got to be about ten years old, he almost got drownded twice. Once they called the police department to save him. He had a row boat with some kids and the boat went over.

Q. Where did he almost get drowned? A. In Fall River - at the Slater Ferry Bridge on Remington Avenue in Fall River.

Q. You say the - A. They got him down the same spot twice. He almost got drownded.

Q. How about putting his shoes on? You heard me ask

his aunt. A. He never could put his shoes on until he was eleven years old.

Q. What happened? A. He would put them on backwards.

Q. Did you ever speak to him about it? A. Yes, and he wouldn't button his blouse - it used to be crooked all down.

Q. He'd button his blouse crooked? A. Yes, he got to be eleven years old before he could do that right.

Q. And until he was eleven years old when he couldn't button his blouse and put his shoes on right - was that a regular thing? A. Yes.

Q. How about after eleven years old? A. Then he started getting in trouble - feeblemind and all.

Q. How old was he when he first got into trouble?
A. Eleven years old.

Q. Do you remember what that trouble was?
A. Well, he threw stones at the mill in Fall River and broke the windows.

Q. Now, was he in a hospital when he was a boy 11 years old? A. Well, not at eleven. That is the time he went away.

Q. I don't mean a mental hospital - I mean a general hospital. A. He went there for his tonsils when he was four years old.

Q. Did you ever take him to baby clinics? A. Yes.

Q. What clinics? A. That used to be Brightman Street in Fall River.

Q. Did the district nurse come to the house?
A. The district nurse used to come to check up on him.

Q. How did he sleep as a boy and a young man?
A. Well, he would sleep along and wake up screaming and hollering.

Q. How long did that continue? A. That would be up to a year, and I would call the doctor.

Q. Do you know anything in regard to headaches?
A. He used to be complaining of headaches all the time.

Q. How old was he when he complained of headaches?
A. He was about six years old - he used to tell me his head was sore.

Q. How long did that continue - that complaint?
A. It has been like that for a long time.

Q. Well, up until how long ago?. A. From about six years until about eleven years old - when he went away.

Q. How about asprin, did he ever use asprin?
A. Yes, he did.

Q. To what extent? A. For headaches.

Q. How often did he use them? A. Every once in a while. Sometimes probably a couple of days a week, and he would be taken some every week.

Q. Do you know the types of headache he had?
A. He told me his head was sore, and he told me he felt a heavy pressure on his head.

Q. A what? A. A pressure.

Q. Do you recall an incident of a bridge - Staler or Slater Ferry Bridge? A. Yes.

Q. Did you have any connection with that?
A. He was about eleven years old, and a lot of things happened before he went away. He used to stop there - stand up on top of the bridge about fifty feet high. The train

used to run on top of the bridge. He used to div off there. He would stand up there and dive in. I used to see him fall in the river.

Q. Had you ever told him not to do it? A. He was a boy that was forgetful. We would warn him and he would forget it when he goes out.

Q. Was he hurt on one occasion there? A. He got hit by a stone in the water - he went head first.

Q. Did you hear him testify yesterday? A. We took him to Dr. Lewis at the time.

Q. Do you know anything about him getting hit on the head with stones? A. Well, kids near the shore, they were throwing stones and they threw a stone at him and hit him on the head and we complained about it.

Q. Did you take him to the doctor? A. Yes, to Dr. Lewis.

Q. Did you go to the police station? A. Yes, we did.

Q. How about dizzy spells and blacking out?

A. He had dizzy spells and he used to be passing out with dizzy spells.

Q. How old was he when he was passing out with dizzy spells? A. He was about ten years old.

Q. Has he had them later in life? A. Well, no, not since he went away - not since he was eleven years old.

Q. You don't know anything about him when he went away? A. He went away when he was a young boy.

Q. Has he lived at home with you since he escaped from the Wrentham School? A. At times, yes.

Q. How has he conducted himself? A. He was a good boy, he never used to fight with his brothers or nothing at all. He was very good.

Q. Were you driving him with a car up in Swansea about a year or more ago? A. Yes, and we went down 25 feet and the machine tipped over.

Q. Tell His Honor and the jury what happened? What was the cause of that, so far as you know? A. Well, there was no sign where we were going and we fell in that lot - that hole - it was 25 feet deep.

Q. That was over near Fall River? A. Yes. It is a sand and gravel place. There was no light at night. We was going by there and there was no light and no sign. There was no warning of where he was going, but he took the machine and fell in that hole.

Q. Was he driving the car? A. Yes, and the machine tipped over that time.

Q. Did he say anything to you at the time as to how he felt? A. I questioned him at the time and he said he was shocked.

Q. Said what?

THE COURT: Said he was shocked s-h-o-c-k-e-d.

A. Said it was a shock to him.

Q. He said he felt a shock? A. Yes.

Q. Did he feel that before the accident? A. He told me that he was hurt. I was the one that was hurt the most.

Q. Did he say how he felt just before the accident? A. Well, he says he felt all right that night. He took us to Swansea. On the way back we had this accident.

Q. What diseases did he have as a child - what sicknesses? A. He had most everything - scarlet fever. His sister had that, but he just got a slight attack of it.

Q. He had the run of childhood diseases? A. He had measles, whooping cough, chicken pox.

MR. McDONOUGH: That is all.

MR. BILL: No questions.

(witness excused)

RUTH PROUTY, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Ruth Prouty.

Q. Your address? A. Wrentham State School, Wrentham, Mass.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Miss Prouty, you came down to this court in response to a subpoena? A. Yes, sir.

Q. And the records that have been produced by Dr. Habara are records you are acquainted with? A. Yes, sir.

Q. And they are before you? A. Yes, sir.

Q. And have you gone over those records?
A. Yes, sir.

Q. Do you know the defendant in this case, Bertram Culombe? A. Yes, sir.

Q. In what capacity did you become acquainted with him? A. As a psychologist at the Wrentham State School, I gave him several examinations.

Q. How long have you been psychologist at the Wrentham State School? A. Since 1921.

Q. What is your education and professional background, Miss Prouty? A. Mt. Holyoke College, B.A., Wellesley, M.A., and internship at the Boston Psychopathic Hospital, and 35 years at Wrentham State School.

Q. Miss Prouty, have you testified in many cases in your field in court? A. Yes, sir.

Q. A number of them? A. No, habeas corpus and a few.

Q. But you have testified in superior courts in Massachusetts? A. In Middlesex Superior Court, one case.

Q. Miss Prouty, will you tell His Honor and the jury, and you may refer to Exhibits 10 and 11, of your first contact with Arthur Culombe - your observations and conclusions and opinions - in your own way? A. The first time I saw Arthur was at Plymouth County Jail and House of Correction, Plymouth, Mass. I was there on a Brigs Law case, and two psychiatrists of state mental hospitals of Massachusetts examined the case for Department of Mental Health, and in my capacity I was to give him the mental tests for the psychiatrists. At that time I gave a 1916 Revision of the Stanford-Benet test.

Q. What is that? A. The mental age at that time was 8 years 6 months, and the I.Q. was 53.

Q. What was his actual age? A. He was seventeen years at that time. I also gave him a second test and chart similar to what Mr. Lynch had, in which he had a mental age of 8 years, 3 months. He had no reading whatsoever; arithmetic was high first grade; spelling and language, first grade; writing and language, second grade, and geography 4th grade. That was for the psychiatrists.

Q. That was at the Plymouth County Jail?
A. And House of Correction, October 23, 1941.

Q. Go right ahead. A. Well, he was admitted to the Wrentham State School on October 29, 1941 because the psychiatrists felt we could do something for Arthur. He had long needed institutional care, and we could re-habilitate him and set him in the right path and take care of him

at the School for Mental Defectives. There are 2,000 at the school and we do a great deal for them.

At that time, after admission, November 3, 1941, I gave him a Cornell-Cox performance ability scale, and the mental age rate was 7 years, 9 months, with an I.Q. of 48.

Q. What was his actual age? A. His actual age was still seventeen.

His mental age of seven years nine months, I.Q. of 48; that is in the imbecile classification, showing that with performance ability he was unable to cope. At that time I also gave him the revised Stanford-Binet test, revised in 1937. The physical age, seventeen years, six months, mental age eight years two months, I.Q. 54, which is a low grade moron. He was at the school about seven months before he escaped. At the school only seven months. He was discharged from escape of one year, which is the policy in Massachusetts.

Q. After one year - A. He was only seven months at the State school and on escape for a year and then discharged.

Q. Now, the psychologist measures the mind and ressoning capacity of the individual? A. Yes; he evaluates the mental rating of a person.

Q. And his intelligence quotient was what?
A. 53 on one test and 54 on another test.

Q. And his mental age at the age of seventeen was what? A. One test was eight years two months. The other test was eight years, six months. And performance ability, the test was seven years nine months.

Q. And he was in the class of imbecile? A. Low grade moron.

Q. How close to the imbecile is that? A. Very close.

Q. Very close? A. Very close.

Q. Now, what is the lowest mental grade? A. I.Q.?

Q. Yes - No; mental grade. There's a moron; there's imbecile. What is lowest? A. The old classification was idiot. The idiot classification.

Q. And what is the type above the idiot?
A. Imbecile.

Q. And then the moron? A. Yes.

Q. What is the normal intelligence quotient for a normal person? A. We count an average normal intelligence quotient about ninety to one hundred and ten.

Q. Now, you have given to the Court and jury a measure of his intelligence tests and age, his I.Q. Can you tell us what the actual age is that the brain capacity is measured at its peak? A. I am not sure that I understand your question.

Q. The way it is framed I don't blame you. Does the age of fifteen or sixteen mean anything to you in measuring the intellectual capacity of an individual? A. Yes.

Q. What does it mean? A. We use that for the adult division. An I.Q. is an intelligence quotient, it is a combination between mental and physical, and for adults we divide by fifteen.

Q. So that at the time that these tests were given to Culombe he had reached that actual age that was used for the purpose of making a test of an adult, hadn't he?
A. That is right.

MR. McDONOUGH: Cross-examine, Mr. Bill.

THE COURT: Cross-examine, Mr. Bill.

MR. BILL: No questions.

THE COURT: You may step down, Miss Prouty,

MR. McDONOUGH: Doctor Schwartz.

ABRAHAM L. SCHWARTZ, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. My name is Abraham L. Schwartz.

Q. And your address? A. I live - my home address is 33 Blue Hills Terrace, Milton, Massachusetts, and I work for the Bedford Veterans' Administration Hospital, in charge of the acute service.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, you are a practicing physician in the State of Massachusetts? A. For almost thirty years.

Q. And what is your connection - what was your connection with the Bridgewater State Hospital? A. After my internship-

Q. Before we go any further, let's get your medial background, your psychiatric background, your educational background. Let's go all through that. A. Well, I am a graduate of Tufts Medical School, 1927. I interned a rotating internship at Fall River Union Hospital, Massachusetts, and then I went as assistant physician of the Bridgewater State Hospital where I became later on senior physician and finally acting medical director. And also during that time I had been senior out patient department physician on mental and nervous diseases of the Boston Dispensary. I was a Major in the United States Army and Chief of the Neuropsychiatric Hospital, Station Hospital, at Camp Campbell, and I am certified by The American Board of Neurology and Psychiatry, 1940, in both neurology and psychiatry, and I was director of clinics at the Foxboro State Hospital and then I went to - I was employed by the Veterans' Administration and was in several of their installations and facilities at Manchester, New Hampshire, at Albany,

New York, at Brockton, Massachusetts, and now at Bedford, Massachusetts.

Q. In Veterans' installations? A. Well, hospitals, facilities.

Q. What is your position at the Bedford Hospital?
A. I am now in charge of the acute service at the Bedford Veterans' Hospital.

Q. Doctor, have you testified in criminal cases for the State or the prosecution in your career as a psychiatrist?
A. I did.

Q. For the Commonwealth of Massachusetts you have been a witness in their prosecutions? A. I did.

Q. Doctor, in the course of your career have you dealt with a great number of mental patients of all types?
A. I have.

Q. Have you any idea how many? A. I couldn't tell you, but you can readily see by being chief of a whole service in the army I had under me at Bridgewater the insane criminals and mentally defective group, delinquent and defective, as well as prisoners, and so forth, in various departments of the prison.

Q. Is it safe to say thousands of patients?
A. I might say that.

Q. Now, before we go any further, Doctor, it just occurred to me, so I am going to ask you this question. Are there different - put it this way - fields, viewpoints of psychiatrists today - I'll withdraw that. What is the field of psychologist relative to the psychiatrist? A. Well, the psychologist is an ancillary department that coordinates, as you might say, laboratory findings for a physician, so that is an avenue or instrument of the psychiatrist in evaluating various departments of processes, comprehensions and so

forth, so he can evaluate the clinical picture of the individual as a whole.

Q. And is the psychologist used today in the practice of modern psychiatry to assist in aiding modern psychiatry?
A. Yes.

Q. Are there some viewpoints of psychiatry today - that is that do not use psychologists today? A. I don't believe so. I think that at the present time different fields of psychiatry employ psychologists to help them out in arriving at conclusions as a team.

Q. In what way does a psychologist assist the psychiatrist? A. Well, in a number of ways. Clinically he has a battery of tests, various tests, which have already been enumerated, I believe, before the Court, and these go into various areas of thought processes, as I said, memory and so forth, so that the psychiatrist can then evaluate whether the whole clinical picture is in conformity with his diagnosis and the procedure of treatment. This may be an organic deficiency which would corroborate, say, x-ray, electroencephlogram, pneumonencephlogram and such findings in relationship to the confirmatory department as well as to help their associates determine in coming to a more definitive concept of treatment and diagnosis.

Q. Doctor, I show you Defendant's Exhibit 11, Culombe's Exhibit 11. Do you recognize that? A. Yes, I do. It comes from Bridgewater State Hospital, the usual form.

Q. You were connected with the Bridgewater State Hospital? A. I was.

Q. What years? A. I believe between the years of 1928 to 1947, and there was a short interval while I was in the service that I was away from that hospital.

Q. During the time that you were connected with Bridgewater State Hospital did you professionally come

in contact with the defendant in this case, Arthur Culombe?

A. As from the records, I did.

Q. Do you recall - question withdrawn. Did you this morning see Arthur Culombe? A. I did.

Q. - before court? You talked with him? A. I did.

Q. And is he the man that that exhibit that you have before you, refers to? A. Yes, sir.

Q. Now, Doctor, referring to that exhibit, will you tell His Honor and the jury what professional treatment, examination, you gave to Culombe, what conclusions you arrived at? A. Well, he was given -

MR. BILL: Your Honor, I think that the record speaks for itself.

THE COURT: I would think that were so, Mr. McDonough.

MR. McDONOUGH: Well, no, Your Honor, the record does speak for itself. I am merely asking him to refer to the record and I am asking him for his opinion, his recollection of his treatment and conclusions.

THE COURT: That may have been what you asked for, but my impression was that that isn't what you were going to get. It looked to me as if he was simply going to read from the record.

MR. McDONOUGH: I don't think so, Your Honor.

THE COURT: Let's make that clear.

MR. McDONOUGH: I will reframe the question.

THE COURT: All right.

Q. Doctor, you have looked at that record, haven't you? A. Yes, sir.

Q. Did I, as a matter of fact, a month or two ago, send you a copy of that record? A. You did.

Q. And you had the opportunity to study it?
A. I did.

Q. Was last night the first time that you talked to me personally? A. That is right.

Q. Now, do you recall examining Culombe, Doctor?
A. I recall it only through the records.

Q. From the records that you have examined, did you - can you refresh your recollection? A. I can only go on what I said in the record.

Q. Well, the record that is before you was made by who? A. The examinations as described were made by me, and then he was -

THE COURT: No. The question is who made the records? Do you know that? Not who made the examination. Not who made the examination. Who made the records that you are referring to?

A. The Bridgewater State Hospital.

Q. Doctor, did you draw up the summary that is contained in that exhibit? Did you dictate it? A. I did.

Q. And that summary was read to the jury yesterday by myself, and does that - does that summary present your views and conclusions? A. That is correct.

Q. And your conclusion was, as the record shows, that he was an imbecile, is that correct?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

Q. What is your conclusion?

MR. BILL: Well, Your Honor, the record speaks for itself, and the doctor says that he can't go beyond the record. I think that it is immaterial.

THE COURT: Of course, I don't know whether it is clear, Mr. McDonough, but there isn't any showing that a review of the record has given the doctor any recollection whatsoever.

MR. McDONOUGH: I wil withdraw the question. I'll take the record, so that there will be no confusion - I'll take it to the other end of the room.

THE COURT: I am not worried about the doctor's using it. It seems to me that what the doctor said was that he had no - that is my impression was that he indicated that he had no recollection even after looking over the record.

MR. McDONOUGH: That wasn't my impression. May I clear it up?

THE COURT: Yes, let's clear it up.

Q. Doctor, you have looked over the records?
A. That is correct.

Q. After looking over the records have you refreshed your recollection as to the conclusion you reached about Arthur Culombe? "Yes" or "no". A. Refreshed means in what sense?

Q. Do you remember now your conclusions that you reached? A. I do.

Q. And what conclusions did you reach -

MR. BILL: Objection.

MR. McDONOUGH: I haven't finished my question.

THE COURT: Go ahead.

Q. What conclusions did you reach as regards the mental status of Arthur Culombe?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

MR. BILL: May I ask a question, Your Honor?

THE COURT: With reference to admissibility?

MR. BILL: To admissibility.

THE COURT: Surely.

MR. BILL: Do you remember anything beyond the record book itself, Doctor, that you can add to this, other than what your conclusion is as stated in the record book?

A. Not as regards the records, no. As a question of opinion, that is a different story.

MR. McDONOUGH: You do remember?

THE COURT: No, he hasn't said that. What we want to know is this: having read that record do you have any recollection at all now of examining Arthur Culombe at the time that this record was made? A. I don't have any clear recollection of having examined him, except from the record, sir.

THE COURT: In other words, what the record says you believe is correct, but you have no recollection of what you put in that record at the time that you put it in, or of your examination of Culombe, is that correct?

A. That is correct, sir.

THE COURT: I will have to sustain the objection.

Q. But this is a record made by you and it contains the conclusions reached by you, is that right, Doctor?
A. That's right, sir.

Q. And if this record was read to the jury yesterday, they were your conclusions, weren't they? A. That is correct.

MR. McDONOUGH: That's all.

THE COURT: Any cross?

MR. BILL: No, Your Honor.

THE COURT: Step down, Doctor. We will stop here. Do you think maybe you have finished?

MR. McDONOUGH: I think maybe I have.

* * * * *

DONALD PAIGE, having been previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Sergeant, I show you State's Exhibit MM, the pistol, do you recognize that? A. Yes, sir, I do.

Q. Now whether or not at sometime you were present when Taborsky was there and that gun was shown to him? A. Yes, sir, I was.

Q. And under what circumstances and when? A. I was with Lieutenant Rome. I believe it was that Saturday, March 2 when Lieutenant Rome showed Joseph Taborsky that gun and identified it.

Q. You are now talking about State's Exhibit MM?
A. MM. And he identified it —

MR. BURKE: I will object to this and move it be stricken. No connection has been shown existing between this gun and the killings.

THE COURT: Overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. Go ahead.

* * * * *

BERTRAM IBELLE, having been previously sworn was recalled by the accused Taborsky and testified as follows:

DIRECT EXAMINATION BY MR. BURKE

Q. Mr. Ibelle, you are a psychologist? A. Yes, sir.

Q. And you testified here the other day, so I think the jury knows your background. You were appointed by the State, were you not, to examine Joseph Taborsky?
A. Yes, sir.

Q. Or by the Court? And you did do that? A. Yes, sir.

Q. How many times did you see him and when?
A. I saw him four times, April 3rd, 4th, sixth and eighth.

Q. Now, you rendered a report, did you not?
A. Yes, sir.

Q. And that report was also given to the State?
A. Yes, sir.

Q. Now, in the report on page 2, the first paragraph, "In part, the examinations administered to this point were given in an effort to rule out intellectual deficit due to some sort of organic brain condition. The results are equivocal and any definitive statement must come from neurological examination. However, the weight of evidence here is heavily for a functional and against an organic explanation of any noted deficits." Would you explain that to the jury and to the Court? A. When I was first contacted about seeing Mr. Taborsky one of the few things that was told to me was that there had been some sort of a brain abscess at birth, and I felt that in view of this I should do certainly a careful makeup concerning the possible effects of this to find out if this might have any effect that I could find on his present level of functioning.

Now, I used several different types of tests to try to approach this problem. The first was the Weschler Intelligence Scale. We know from past experience that certain tests, certain sub tests on the Weschler scale, such as the amount of information that the person has, the size of his vocabulary, and that sort of thing, tends to holdup well even when there is some brain difficulty. There are other sub tests which do not hold up well when there is brain difficulty. Some of these are the arithmetic sub tests, his ability to repeat digits forwards and backwards, and that sort of thing.

When I had finished with the administration of the Weschler, the deficit as measured by the difference, the hold test and don't hold test was large enough so that I felt I had to go further with it. I felt at this time that it did not represent organic damage for this particular reason. I felt that there was some lack of motivation to do well on the test, there was some lack of interest in

working carefully. He was rather reckless on some of the items. When I would stop and ask him to work more carefully he was capable of doing work. So that some of the sub tests which show an impairment of efficiency, I felt that the impairment was due to this recklessness, this lack of motivation, rather than to organic things. However, I felt that I should proceed further.

The next test which I gave was the Bender-Gestalt Test. This is a series of simple designs, diamonds, squares, dots in certain patterns. We find that people with a certain kind of brain damage have lost the ability to coordinate the mind and the movements and they frequently have difficulty in reproducing these designs correctly.

On the first administration of this test, again the lack of motivation interfered with the results. His attitude at the time that the tests were taken is something like this: He had his head in his hand like this, and the paper was on the table and he was drawing the design, there was no effort to hold the paper steady, and the designs were rather distorted because of this.

I re-administered the examination, again asking for more cooperation, and on the second administration the reproductions were adequate. Again I felt that this did not support any clear cut evidence of brain damage.

The third test was the Weschler Memory Scale. This is a series of items which measures memory in different areas. For example, there is a section devoted to personal orientation, does he know when he was born, how old he is, what year is this, where is he at this particular time. On all of these orientation questions he answered quite well. He was well oriented to time, to place and to person.

His mental control was good. Mental control is measured by the time it takes to count backwards from twenty to one, the time it takes to say the alphabet, the time that it takes to count to forty by three. He was able to do this quickly and adequately and accurately. His recall of recently meaningful verbal material was also quite adequate. This is measured by reading a small story of about four or five lines and asking the person to recall as much of the story as he can. This is done twice on one test. He did quite well with it. There is another section devoted to learning of new associates. The person is required to try to learn this kind of association, "gold, silver; east, west." We have both easy associates and difficult, like "crush, dark." There is no formal association between these two words and he has to learn them. He did quite well on that section, too.

But on the recall of visual designs there was again some deficit. I showed him some designs of varying complexity for a period of ten seconds. Then he was required to reproduce them. He didn't do a bad job, but it was bad enough so that again I questioned whether it was pointing to something possibly organic.

I, therefore, a few days later administered an alternate form of this test. He did quite well. In fact, he reproduced the designs very well. Again I could find nothing that was particularly or grossly organic in the record. On the basis of all of this I concluded that as far as I was concerned I could find nothing definitely organic here.

However, any ruling out of an organic condition would have to be done certainly by a medical man, a neurologist, or something of that nature. I think my only point here is that I am trying to rule out actual intellectual deficit due to an organic condition. As far as I am concerned I feel that it does not exist here.

Q. Did you find any actual intellectual deficit?
A. I found intellectual inefficiencies, yes, sir.

Q. Now, on the same page you state again, as on the intelligence test - I think you are talking there about the Rorschach - you state: "Mr. T again displays his flat, vague, closely guarded approach. His thinking is highly stereotyped, and he seldom strays from eminently conventional percepts. Again, as on the intelligence test, he shows weak analytical and integrative abilities. Intellectual capacities are not utilized in any creative or constructive manner. Anxiety, although present, is apparent mostly in Mr. T's defensiveness. It is under very tight control and no overt manifestation of acute tension is apparent. Emotional life is bland and shallow. In spite of this, however, he does have the ability to put up a superficial front of compliance and affability. Interpersonal relationships are based, as they are, on a distorted conception of what people are really like." Would you explain that to the jury?

A. Again, this particular statement comes not from the Rorschach alone, but it comes on evidence obtained from various tests. Now, I would think the first line of evidence, as far as my report here is concerned, is the way Mr. Taborsky related to me at the time he was taking the examinations. Throughout the four sessions, rather lengthy sessions I had with him, he was always aloof, cool, superficially cooperative, but very much on guard.

Now, he explained this himself by voluntary evidence - something peculiar to the situation between he and I. He knew that I was representing neither the defendant nor the prosecution here, and he felt he had to be quite cautious about what he told me directly. This is quite understandable.

Now, the second line of evidence here would be in the Rorschach. When I spoke of his emotional life being bland, almost superficial, cold, that sort of thing, in

Rorschach interpretation, we take into account the way in which the individual handles the colored cards. We feel that his reaction to the color in the cards somehow represents the way in which he reacts to the emotional stimulation from the environment. We can have many different ways in which a person can handle his emotions. In this particular instance we find that when he makes a response, when he gives a response, where the color is used, the color is not a natural response to something that is had - it is something that is a little bit forced - it doesn't come out quite spontaneously, and we feel when we find this kind of response we are dealing with someone who does react superficially in his emotions, so to speak - that he is being quite guarded and cautious and not revealing himself completely.

There are lines of evidence here again from the Rorschach. We have about twenty-one or twenty-two responses that we call populars. They are responses given by a large number of people who take the test, and we expect of those who are given the test an average record of about five to eight of these popular responses out of thirty. Mr. Taborsky is somewhat restricted. He gave me eighteen responses, yet in that eighteen responses he gave me seven populars, one third of all the available populars. Now, out of the twenty-one or twenty-two responses, six or seven of them, again about one-third, are human percepts. Mr. Taborsky gave me no human percepts of the human nature until the next to the last card, and then he gives one. He has given his third of all the responses in that category, but gives me only one of the popular responses.

When I went back later and questioned him about whether he could see this particular area as human and pointed them out to him, he still couldn't do that. This, I think, gives us some indication of his lack of ability to empathize with other people. We have the kind of

forced emotional quality in his relationships, and here we have some indication that he is not seeing other people where other people see them. This is not the kind of response that we expected from people getting along well with others.

Q. Have you finished? A. I could give more evidence from the other tests, but I leave it up to you.

Q. What was the result of that - is it that part in here where you say interpersonal relationships are poor, based as they are, on a distorted conception of what people are really like? A. Yes, I think in view of the fact of these distorted relations and what he related to me, his replies not being of a spontaneous nature, he doesn't seem to think about other people as the average usual person does, and we would expect his relations with other people to be based on whatever false concepts he has of what people are really like.

Q. Further, you say in that same paragraph - and you relate some stories which I won't read - you say in none of these stories are the consequences of the act spelled out, and what you see is a rather bland and cold emotional life, manifesting itself in the T.A.T. test stories and his limited ability to relate to others in a warm and personal manner. Would you explain that to the jury?

A. The T.A.T. tests or Thematic Appercaption Tests - these consist of a series of pictures such as you might see illustrated in magazine stories. Usually these pictures have some kind of a human relationship - a human relationship is depicted - it might show a single individual so that people can respond to it. It might be one or more people in some kind of a social situation. In going through this particular test, Mr. Taborsky's uniform response with two or three exceptions which I will explain later, was to give a very short stereotyped descriptive statement of what is in the actual picture. There was no story or bringing

into order the imaginative processes and so forth - where he makes something up. In three instances, however, he did go a little bit further than that. In one story showing a man on an operating table being operated on, there was a boy in the foreground and there was a gun next to him. The story goes something like this - "The boy shot the man. He has no feeling about it—" Well, I can read the actual story here. I think it would be clearer:

This story was told after a good period of concentration - he didn't begin right away to tell the story. "It looks like an emergency operation and that kid has something to do with it. I don't know, though, the way the picture is - it is just that that is what he is thinking about - the operation in the background. This is a gun. It could have been that that guy was shot and it is possible that he did it. This is the boy in the foreground, but if he did it he doesn't look very sorry. He is just thoughtful."

I questioned him at this point as to why the boy would do such a thing - there is no clue there as to why. Then I asked him what was the story - why he would do it. Well, - "The way the picture looks - the only thing you could use for a reason is that he had something against that person or that person is trying to do something to someone or to him." I asked him why he didn't seem to be sorry, but just thoughtful, and he said, "Well, that is just the way his expression is. In fact, it looks as though he isn't sorry at all. That is the general outline of other cases - the story in similar veins. There is no indication here there will be any eventual punishment at all - no indication at all of remorse or guilt." The usual person, when he is given this kind of test and given this kind of a story always brings in some implement of eventual punishment or feelings of guilt or feelings he shouldn't have done this or fright. Here we have nothing except the simple statement that this is what happened.

THE COURT: We will stop here. Mr. Sheriff, the accused will be escorted from the courtroom.

Ladies and gentlemen of the jury, I'm going to let you go to lunch. You will not talk about this case nor will you allow anyone to talk to you about it. If there is anything in the papers about the case you are to ignore it. If there are any radio or television comments you will ignore those. When you report back here, report to the jury room and the alternates will report to their room.

(Recess at 1:00 P.M.)

2:00 P.M. - JUNE 25th, 1957

THE COURT: May we have the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury, Sheriff?

(Jury and alternates present)

THE COURT: Are you continuing with Mr. Ibelle?

MR. BURKE: Yes, Your Honor.

BERTRAM IBELLE, on the witness stand.

DIRECT EXAMINATION BY MR. BURKE: (RESUMED)

MR. BURKE: May we have the last couple of questions, read, Your Honor?

(Last portion of answer read by reporter)

Q. On page 2, of your report you further state,

"On the MMPI for the psychopathic deviate scale is the only one which shows significant elevation, Mr. T. displays both a distorted sense of values and a distorted idea of what makes others behave as they do." Now, what does that mean? Will you describe that to the judge and to the jury? Let's take it in parts. What is this distorted sense of values and the distorted idea of what makes others behave as they do? You found that from your tests? A. Yes, sir. I think that both of these things come from the same general grouping of answers that he gave to the test. The MMPI is the Minnesota Multi-Basic Personality Inventory. It consists of 550 cards, each with a simple statement on it. I'll give examples of some of these statements in a moment. The person is asked to sort these into three groupings, "The statement is usually true about myself." "It is not usually true about myself," or "I can't decide." When the scale was originally developed the responses of several hundred patients in the Minnesota State Hospital System were obtained and certain scalings, certain groupings of responses were determined from this group of 550 questions, which place a person in a certain category. For example, if a person answers as to the persons diagnosis, as psychopaths do, then his score on the psychopathic deviate scale should be significantly raised. This is some explanation of what this psychopathic deviate scale is.

Now, this might give some indication of the system of values that he at least shows that he follows, that he believes in, and I would like to read some of the responses. He feels that most people are honest chiefly through fear of being caught. "I think most people would lie to get ahead." "I think nearly anyone would tell a lie to keep out of trouble." "Most people will use somewhat unfair means to gain profit or an advantage rather than to lose it." "It is all right to get around the law if you don't actually break it." "A person shouldn't be punished for breaking a law that he thinks is unreason-

able." "When somebody does me a wrong I feel I should pay him back if I can, just for the principle of the thing.

There are many responses in this same vein. From the way in which Mr. Taborsky answered these questions it was my opinion that he feels that most people subscribe to this same system of values, whether they express it or not.

Q. Now, this summary, which you have in your report is what you found over all, I assume? A. Yes.

Q. "Mr. T. is a man of above average intellectual endowment who, because of major character defects, has been unable to capitalize on these assets. Although superficially capable of ingratiating, compliant behavior, his emotional life appears quite shallow. His analytic and integrative abilities are weak and judgment poor. His social behavior is based on a distorted sense of values which he apparently believes is shared, and to some extent accepted by people in general. Anxiety is quite well controlled and guilt feelings seem relatively absent." That is the summary of your examination?

A. Yes.

MR. BURKE: You may inquire.

MR. BILL: Is that the original, Mr. Burke?

MR. BURKE: No, it isn't. It is just a copy. I would like to put it in evidence.

MR. BILL: Where is the original? I would like to put that in evidence.

THE WITNESS: I believe that the original is with the Court, sir.

MR. BILL: Have you got a duplicate?

THE WITNESS: I have a duplicate here.

MR. BILL: And is that it?

THE WITNESS: Yes, sir.

MR. BILL: May that be marked for the State, Your Honor?

MR. BURKE: No objection, Your Honor.

THE COURT: It wouldn't be in this file, would it, the original?

MR. BURKE: It may be.

THE COURT: Was the original mailed to Court?

THE WITNESS: Yes, sir.

MR. BILL: I would just as soon have this marked.

THE COURT: All right, that may be marked State's Exhibit OO, No. 21,665.

(Report of Bertram Ibelle, received in evidence and marked "State's Exhibit OO, Case No. 21665")

CROSS EXAMINATION BY MR. BILL:

Q. There's just a couple of things that I would like to point out, Mr. Ibelle, that weren't brought out by Mr. Burke, I don't think. I am reading from the second paragraph under "Results." "In general the picture is one of a good native intellectual endowment in an individual who lacks the motivational push to capitalize on it and use it effectively." You found that, didn't you? A. Yes, sir.

Q. And then down where you were reading the next to the last paragraph -

MR. BURKE: Is that page 3, Mr. Bill?

MR. BILL: Page 3.

Q. I think you left off with this statement, that you

read from the report, "When somebody does me a wrong I feel I should pay him back if I can, just for the principle of the thing," etc. A. Yes.

Q. "In social situations he feels somewhat ill at least and finds it hard to mix. He feels somewhat depressed because of his present situation but expresses little in the way of remorse or fear." You found that, too, didn't you? A. Yes, sir.

MR. BILL: That's all, Mr. Ibelle.

MR. BURKE: That's all, Mr. Ibelle.

THE COURT: You are excused, Mr. Ibelle.

MR. BURKE: May Mr. Ibelle be excused?

THE COURT: Any objection, Mr. Bill?

MR. BILL: No objection.

THE COURT: You may be excused, Mr. Ibelle.

MR. BURKE: Doctor Abrahamsen.

DAVID ABRAHAMSEN, a witness called by the Accused Taborsky, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. David Abrahamsen, M.D.

Q. Address? A. 1035 Fifth Avenue, New York City.

DIRECT EXAMINATION BY MR. BURKE:

Q. Now, Doctor, would you give me your educational background? A. I was born in Norway in 1903, I received my medical education at the Royal University in Oslo, and I graduated as a medical doctor in 1929. I was first year Public Health Officer, studied at the University in Oslo, in psychiatry, in neurology. I studied in

Copenhagen, Denmark and I studied in London. I was working in Norway from 1937 until the war broke out in 1940, with the Department of Justice, Oslo, Norway, as an assistant and as a psychiatrist. I came to this country in 1940, I worked at St. Elizabeth Hospital for half a year, I worked in Illinois State Penitentiary, Joliet, for one year in 1941. In 1942 I was appointed a lecturer at Columbia University. I studied for half a year, 1943, at Meninger Clinic at Topeka, Kansas. I came to New York and worked at Bellevue Hospital as psychiatrist and at the Court of General Sessions in psychiatry in New York City, until 1944, when I was appointed Research Associate, at Columbia University. In 1944 I was appointed Director of Research regarding psycho-somatic conditions and delinquency: I worked at Columbia University and in 1948 Governor Dewey appointed me director of Research Project, dealing with sex offenders, and I worked at other institutes and at Sing Sing, until 1952. I continued to work at psychiatric institutions until 1954, and I was then appointed a consultant at the Department of Mental Hygiene, State of New York, and I have also been, or am, Executive Director of the School Institute, in New York State.

Q. Doctor, would you give me some of the professional organizations of which you are a member or a director, having to do with physical studies? A. I am a member of various societies, American Psychiatric Association, I am a Fellow of that. I am a Fellow of the New York Academy of Medicine, member of the New York City Clinic of Psychiatry, I am a diplomate of The American Board of Neurology and Psychiatry and I am a qualified examiner appointed by the Department of Mental Hygiene, State of New York, and I am a member of quite a number of societies, I don't remember really.

Q. Doctor, did you publish any books regarding the

mind and crime? A. In 1944, I believe, yes, I published the first book here in the United States, "Crime and The Human Mind", which is a comprehensive book about the relationship between crime and the mind. That book was republished in 1945 and translated into Spanish and Swedish and used throughout the world, United States, South America, as a textbook. In 1945 I published a book about the German mind, called "Men, Mind And Power", and in 1946 I published a third book called "Mind And The Death of a Genius." In 1952 a book - pardon me, those three books were published by Columbia University Press. In 1952 I published a book called "Who Are The Guilty"? A study of education and crime, and that book was published in England two years ago. And I am now publishing another book which is - to be published next year. I have in addition to these books published and about between thirty and fifty scientific papers dealing with delinquency, crime, psychotic and psychometric aspects and about education and schools.

Q. And what position to you presently hold, Doctor?
A. I am at the present time a consultant with the department of Mental Hygiene of the State of New York working with the Commissioner of Mental Hygiene regarding particular projects which I am not free to discuss now.

Q. Now, you have also testified in court on many occasions? A. Yes, not on many - on several occasions.

Q. And you have testified both for the State of New York and for the defense, have you? A. I have mostly testified for the State of New York, I believe. Sometimes I have testified for the defense too, I would say.

Q. Now, recently you testified in the State of New York regarding the so-called "Mad Bomber Case"?
A. That is correct, that was for the State.

Q. Did you testify for the State in the case involving the so-called "Thrill Killers" from Brooklyn? A. That is correct.

Q. Did you at my request examine the defendant Joseph L. Taborsky? A. Yes, I did.

Q Will you tell me, Doctor, what were the results of your examination? A. I examined Mr. Taborsky, the defendant, on April 20, 1956. I have written quite a long report, and with the Court's indulgence, may I read from some of the statements I have here.

THE COURT: The question was, what were the results of your examination?

A. The results of the examination —

Q. Let me correct the date, Doctor, it was April, 1957, wasn't it? A. April, 1957 - I am sorry. The defendant in the examination showed little spontaneity in his answers. He seemed to welcome —

THE COURT: Mr. MacGlashan, will you read what you have so far?

(The reporter read the answer.).

THE COURT: I think the jury is having a little difficulty following this. If I may suggest - if you speak a little slower and a little louder they may do better with you.

THE WITNESS: I am a little too modest to speak loud.

THE COURT: Well, you overcome your modesty and try.

THE WITNESS: The defendant seemed to welcome the interview but was cautious in his replies. His voice was well modulated; there was no speech abnormalities;

he was rather alert and oriented. There were no illusions present and no hallucinations could be ascertained. As to delusions, it is interesting to note the fact that he was a "lonewolf", indicating he had difficulty in finding companionship. Although he admits that people have treated him quite nicely, he is resentful that his record has kept him from getting a good job. When he was told that he himself had committed the crimes, and no one else, and he therefore had such a bad record, he still continued to say, 'Well, my bad record prevented me from getting a good job.' On that point he does not seem to have any emotional insight about his crimes. He did not admit that he had done anything really wrong.

In view of this distorted viewpoint, the defendant is evidently laboring under the delusions that he is permitted to kill since in his own mind he strongly believes that society has that right.

In that connection, I would like to come back to the statements which made me believe what I said here.

During the examination he stated - I asked him if he was sorry that he had killed the people or was he sorry for the families and their children and he answered: "I don't think of the people I have killed; I only think of my own family - that is I think of my mother." I asked how about your father - "I never think of him - it is funny, though, if I don't see anybody, I don't think of them."

When I asked him about why did he commit the crimes, he said, very frankly, "When I kill another human being, they didn't think it was wrong when they wanted to kill me They looked on killing as if they enjoy it - even the taxpayers enjoy the killing and all other people - and the ministers enjoyed that - they watched the execution. If the majority thinks it is right to kill, why couldn't I do it?"

Q. Now, Doctor, did you find any particular mental condition existing in Joseph Taborsky? A. Yes, I did.

Q. And what was your diagnosis? A. I might give here perhaps my conclusions, including the diagnosis with your consent, Mr. Burke.

Q. All right, go ahead. A. The defendant is an individual who has lived under very deprived emotional, intellectual and financial conditions since his earliest childhood. Because he received little guidance at home, having a drunk father, he very early developed a strong anti-social pattern of behavior, which increased as time went by, culminating in the row of the many murders he is now charged with. One precipitating event to the senseless killings may be his marriage, which seems to have been rather an unhappy experience on his part, and the fact that he sat in prison for fifty-two months awaiting to be executed. No doubt that this long protracted event, coupled with the fact that he had previously spent about twelve years of his time in prison, reformatories and state schools, has developed in him an attitude of callousness and hopelessness of unreality and paranoid reaction that has been instrumental in carrying out his murders. The crimes where by he shocked the many persons he had burglarized or robbed, can be understood because he wished unconsciously to die himself. By killing the people he burglarized or robbed, he made certain that when apprehended, he would receive the maximum penalty. This is the reason why he himself states that he prefers to die than to sit in prison.

Within himself he harbors strong resentment and hostilities against his father and brother, against the latter in particular because he testified against him in the first killing the defendant carried out. Because both his father and brother have been declared psychotic, the brother being still in Norwich State Hospital, the defendant consciously or unconsciously does not want to be in

the same category as them, and therefore prefers, rather to be anti-social than having a sick mind.

In this defendant are ingrained strong and constitutionalized elements of a diseased mind, as evidenced from his brother's and father's psychosis. This mental disturbance he tries to hide by not showing remorse or feelings of guilt for his crimes, also because he feels strongly that society is against him.

The diagnosis is, then, in view of his previous criminal history, his lack of reality, his inability to distinguish between right and wrong, he has developed a system of delusions which brings me to the conclusion that the defendant suffers from schizophrenic reaction, paranois type. For this reason, and since he also must be considered to be dangerous, he must be transferred to a mental hospital.

Q. Now, Doctor, what do you mean by this schizophrenic condition? A. This is a man who is unable to distinguish between reality and fantasy. He has his own values. I was - I don't say pleased - but I was quite taken by the fact that I heard the psychologist testify that he too felt this defendant suffers from distorted values. This is just what I understood to have happened. He does not have a real appreciation of what is right and what is wrong.

Q. Now, when you found he had an unsound mind, whether or not you found he was not responsible for his acts? A. I do find this man to be irresponsible for his acts.

MR. BURKE: You may inquire.

CROSS EXAMINATION BY MR. BILL:

Q. May I see your report, Doctor? A. I don't know whether you should see the report?

MR. BILL: May I see the report, Your Honor?

THE COURT: Let Mr. Bill see the report.

MR. BILL: May I have a little time, Your Honor?

THE COURT: Certainly

Q. Doctor, when you asked Taborsky: "Why did you kill when you were going out burglarizing?" and he answered, "I didn't want to be identified." That is true - do you remember that? A. Yes.

Q. Now, that means, does it not, to you, that he didn't want to be identified because he would be arrested possibly through his identification and suffer a penalty, isn't that correct? A. Yes, but it did not.

Q. Yes, but is that correct? A. Will you please ask it —

THE COURT: Yes, read the question, Mr. MacGlashan.

(The Reporter read the question)

THE WITNESS: Yes.

Q. So that he did know he was doing something wrong, and if he was identified he would be penalized for it, is that correct? A. No, I don't think so, because he doesn't have the emotional appreciation. Superficially, perhaps, he knew what he was doing was wrong, but only in a superficial sense.

Q. Then what would he care whether he was identified or not? If he thought he was right, what did he care if somebody identified him? A. Well, he did plenty of things in order to get caught.

Q. That wasn't the case until later - that he ever admitted what he had done or confessed to it? A. I am under the impression he has confessed.

Q. You knew about the Woolfson case didn't you? A. Yes, sir.

Q. And he told you according to your report he had committed the Woolfson murder? A. Yes.

Q. Do you know - and you must have known, and certainly could have found out in asking him, that he denied all the way through his trial that he committed that crime; you knew that didn't you? A. Yes.

Q. Well, how was he trying to be caught and charged with the crime; will you explain that? A. Very simply, sir. The mind - the human mind - doesn't work along one track it works along several tracks. The unfortunate thing is each mind has many influences within it, such as drivers and tendencies which one minute might say this and one minute may say that. That is what makes psychiatry and the exploration of the human mind so awfully difficult.

Q. I don't think you have answered my question. I asked you when you questioned Taborsky and he said he didn't want to be identified because he might face a penalty, and you said on the contrary, he wanted to be caught, or something like that. A. Yes, and my proof for that is that he shot the people.

Q. And if he wanted to be caught in the Woolfson case, why didn't he come in here and admit instead of denying it all the way through? A. I know the answer to that question.

Q. You know the answer to that question. And as a matter of fact, whatever time he spent in the State's Prison was from his own doing, was it not, of denying what he had done when he really did it? A. I don't believe it was just that because his brother became mentally insane, and therefore the state could not use his evidence, and I don't believe it was just because of his

own doings. I agree with you, sir, that it was the result of his own doings, but there are quite a number of circumstances which really complicated the whole matter.

Q. Well, if he had done the Woolfson shooting, as he told you, he could have saved himself a lot of time by just admitting to the murder, couldn't he?

Mr. Burke: I object. That question has nothing to do with this examination — could have saved himself a lot of time.

THE COURT: I will sustain the objection on the ground of form. I think the inquiry is proper.

Q. You said something, Doctor, about the effect that being in State's Prison had on him - of some four years, is that correct? A. Yes.

Q. Does it make any difference in your opinion whether he was down there as the result of being committed on a crime he didn't do as against a crime he did do? Is there any distinction between the two? A. Any distinction? I believe the result is that he was still sitting there for over four years waiting execution, and I believe the man, even if he is very callous, he would be under a severe emotional strain waiting there four years to be executed.

Q. And that wouldn't make any difference in his reactions as to whether he was guilty or not guilty?
A. I don't think there would be any.

Q. How about a man who was perfectly innocent and staying there four years - he'd come back with bitterness and anti-social feelings, wouldn't he? A. Yes.

Q. And the man who actually did the crime, he should be grateful, shouldn't he, to society? A. Yes, of course.

Q. He got off from something he really did? A. Of course he ought to be grateful, but there is a distinction.

Q. Well, —

MR BURKE: I object. He should allow him to finish the answer to one question before starting another.

THE COURT: I think the doctor should permit Mr. Bill to finish the question, and then having finished, I think he should permit the doctor to answer. There is no question pending.

Q. Doctor, as a matter of fact, didn't Taborsky tell you that he went out and committed these robberies up here in Hartford because of his lack of work down in Brooklyn?

Mr. BURKE: This is objected to, Your Honor.

THE COURT: What is the objection?

MR. BURKE: The objection is on the question of the relationship between the doctor and the patient.

MR. BILL: Well, of course, there isn't that in Connecticut.

THE COURT: You don't have any authority for that?

MR. BURKE: No.

THE COURT: Then I will overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely. Read the question, Mr. MacGlashan.

(The reporter read the question).

THE WITNESS: May I address one question to Your Honor? I do believe that the privilege of communication between doctor and patient is prevalent all over the United States.

THE COURT: I will inform you, Doctor, it isn't prevalent here, and you shall answer the question. Do you want it read again?

THE WITNESS: Yes.

(The Reporter read the question)

THE WITNESS: I don't remember that.

Q. You don't remember that? A. No.

Q. He didn't tell you that? A. May I refer to my report and maybe I can refresh my memory?

THE COURT: Surely, - you have a report too? I take it you are handing a copy of the report to the witness?

MR. BURKE: Yes, Your Honor.

THE COURT: Just for the record to be clear.

MR. BILL: You can use it when it is in.

THE COURT: I'll permit you to make whatever use of it you desire to, Mr. Burke. The question is, is there objection to having it marked?

MR BURKE: No, I don't, but I don't want to be stripped of it. He has one copy, this is the original, and I wind up without any.

THE COURT: This is the one that was marked?

MR BILL: Yes.

THE COURT: I take it that there is no objection?

MR. BURKE: No, Your Honor.

THE COURT: Exhibit PP in No. 21,665.

(Report of Doctor Abrahamsen, received in evidence and marked "State's Exhibit PP, in Case no. 21,665")

Q. Doctor, referring to that last exhibit, which is your report, and turning to page 5, if you will, the top paragraph, and while you are looking at that I will read it, "When

asked about his work he stated that he could usually get about fifteen dollars a day when he was working with a moving company, but when he came to Brook'n he earned only $40.00 a week and 'who could get along on that'?"

Q. Now, Doctor, you did discuss his monetary situation as to wages and so forth in that paragraph, didn't you?
A. Yes.

Q. And did you discuss with him the various crimes that he had committed? A. Yes.

Q. And didn't he tell you in each instance that he went out to get money? A. I do not remember if he told me in each instance he was going to get money, but that - I think in substance. In substance you may be right.

Q. You didn't think for a minute that he went out just to kill some gas station man that he didn't know? This was money, wasn't it, that he was after? A. I am not quite sure about that. I may say that such a man could very well go out to kill in order to kill.

Q. Didn't he tell you, though, that he was out after money? A. That particular aspect was not discussed so much in my interview with him, because he did not really bring that up as a particular motivation.

Q. Weren't you interested in that particular feature of it? A. I was interested. Of course I was.

Q. Why didn't you go into it a little more deeply?
A. I discussed this with him, as I said, but he did not - although he at times possibly may express an interest in money it was my impression - and I can only give you my impression - my impression was that this man really was not going in to take money as such, because how much did he get in any of them, and it was not much, to kill a man in order to get $20.00 or $30.00 each time.

Q That is your argument, but I am talking about each

instance. In no instances did you find that he went up, that he held up anybody that he actually knew, is that correct?

A. No, I don't believe that he knew anyone, except - may I elaborate a little here?

THE COURT: Go ahead.

A. Except I do know that he was trying to kill someone whom he knew.

Q. He was trying to kill someone he knew? A. Yes, and he made definite plans about killing someone that he knew, and that was not in connection with any money.

Q. But that was through resentment because this man had done something to him, is that right? A. Yes, but you understand that it is through sentiment and hostility everyone kills.

Q. But not everyone kills that are out robbing to get money. That isn't true, is it? A. I didn t -

THE COURT Read it, Mr. Burke.

(Last question read by reporter).

A. Yes, that's right.

Q. That isn't true? A. No.

Q. Did he tell you that he had to make some extra money because his wife thought he was working steady?

MR. BURKE: I object to this, Your Honor. This is five times that I have heard this question and four times that the witness has answered.

MR. BILL: I have never asked him that before.

THE COURT: I didn't hear it, but I will overrule the objection. Will you answer? Read it, Mr. Burke.

(Last question read by reporter).

A. May I please refer to my notes?

THE COURT: Surely, Doctor.

A. I am sorry, but I cannot remember that particular point, sir, unless it is written here and I cannot find it.

THE COURT: All right, you have answered it, Doctor.

Q. Well Taborsky gave you a different idea than that he just wanted to go out and kill somebody, Doctor? Didn't he tell you "I didn't want to be identified" on the bottom of page five? A. On the bottom of page 5?

Q. Page 5, the last paragraph. A. Yes.

Q. I asked "Why did you kill?" A Yes.

Q. "When you were going out burglarizing." His answer "I didn't want to be identified." A. Yes, but please, why don't you continue that, please.

THE COURT: No, wait a minute, Doctor. I appreciate your situation but you mustn't ask Mr. Bill questions. He can't answer them.

MR. BURKE: What page is that, Mr. Bill?

MR. BILL. The bottom of page 5.

Q. You found him, Doctor, alert, oriented, no delusions, no hallucinations? A. Pardon me, that's wrong. I didn't say "no delusions".

Q. No delusions? A. No, pardon me, I haven't said that.

Q. You didn't say "no delusions"? A. No illusions.

Q. No illusions? A. No illusions.

Q. Did he have delusions? A. Yes. It is written very clearly.

Q. In his history of this New Britain case, did he give you the details of that case? A. Pardon me?

Q. The New Britain case? A. I am sorry, I don't remember that case.

Q. That is the gas station where two men were killed. Did you ask him about that? Or did he tell you about it?
A. Yes, I think that he told me something about it, yes.

Q. Did he tell you that when the customer drove up to the station he hesitated, he wanted to see if he would go away? A. Pardon me. He hesitated?

Q. He hesitated a while to see if the customer would go away. Did he tell you that? A. I don't remember that.

Q. It is your theory that in all these incidents that Taborsky went to these various places just to kill somebody, Doctor? A. I believe there has been a mixed motivation, not only to kill but also not only to steal. This man killed because he wanted rather to die than be in prison.

Q. He was out of prison. There was no question of his dying then, when these things happened. How do you explain that? A. But well, sir, in the human mind goes around quite many ideas, very much unconscious, you are not completely aware of them. And this man here, having been in prison for four years before, he felt within himself that he was going to be caught, better to be caught in the worst possible way, and so having developed no conscience of his own, he rather felt that he would rather prefer to die than being in prison, and so, therefore, he killed. That was his motivation, unconscious motivation on the same line if not more comparable than that motivation of robbing because he wanted to have money.

Q. Did he tell you that there were other hold-ups that he had committed where no killing had been done, or no attempt to kill? A. I don't remember that, sir.

Q. Did you ask him that? A. Will you please read the question?

THE COURT: Read the question, Mr. Burke.

(Last two questions read by reporter)

A. It might very well have been. I cannot remember it very clearly, but it might very well have been that on a few occasions he may not have killed.

Q. Wouldn't that have been highly important, Doctor?

A. Yes, but as far as I am able to think through this report it is - my main impression stands, that whenever he went out he went out to kill.

Q. Well, how are you going to determine that, Doctor, except from what he tells you and your putting together facts with it? That's the way that you do it, isn't it?

A. Yes, that is correct.

Q. Weren't you highly interested to find out if he did go out on some of these hold ups and didn't kill?

A. To my memory it seems that - or at least to me he did not admit to me that he had committed any robbery as such without killing. I am not - I am only talking about the time from 1954 when he came out from prison.

Q. And so am I. And weren't you interested in asking him directly whether he had gone on a hold up without killing? A. It seems to me that he had - in all these reports he had killed, always.

Q. No, that isn't the question.

THE COURT: Read the question.

(Last question read by reporter).

A. I don't believe to the best of my knowledge when I examined him, I don't believe that he ever once admitted to me that he had committed a robbery without killing or trying to kill.

THE COURT: Doctor, I will have the question read again. See if you understand it. Read it Mr. Burke.

(Last question again read by reporter).

THE COURT: Would you answer that, Doctor, if you understand it?

A. Of course, I would have an interest in such a question. Of course. But in view of the fact having the record of the times he has pulled, seven or eight times, such a question for me would be superfluous, because I understood that the motivation was more for going out killing than for any other motivation.

Q. Then I understand, Doctor, that just because a man has pulled in a number of instances you just deduct from that that he is out to kill, and only that? A. Yes.

Q. That is correct, isn't it? A. Yes.

Q. And yet in order to absolutely prove your theory wasn't it a highly important question to ask him if he hadn't gone out once or twice, or even more times on a hold up when he didn't kill? A. Well, sir, you may think this would be an important question, and I certainly can agree to that. However, in his long anti-social record, which really showed a gradual worsening of his own mental condition and his own appreciation of his own situation I did not believe for a moment that it was so necessary for me to ask that particular question. Now, mind you one thing sir, I don't have any particular record of that point.

Q. Are you telling us, Doctor, that Taborsky believes that he had a right to kill because society has the right to kill? A. Those words were written down just the way it was said, sir.

Q. Those are his words? A. His words.

Q. Did he tell you that when he came out of prison after those four years that he stated that he had become highly religious and was going into a monastery and that he was happy about the whole situation.

Q. Did he tell you that? A. He mentioned about spiritual revelation or religious life, but I didn't think that that was in any way a sincere conversion, if I may use that as an expression.

Q. He told you that his mother was a highly religious woman, didn't he? A. Yes.

Q. And that he loved her greatly? A. Yes. Well, may I correct that answer, please? You said that he loved her greatly. It may very well be that he loved her, but he loved her in his own way - that is as a dependent child loves a mother. He didn't love his mother as an adult.

Q. We all love a mother in a dependent way, don't we, Doctor? A. More or less, yes. But when you get to be grown up you like to make your own decisions, you become independent. But this man here, he was - even when he was married he said "I'd like to go back to Mama."

Q. He said to you, when you asked him, on page 5, "Is there anything wrong with you " Wasn't the answer "There must be something wrong with me. Maybe I have no conscience. These things don't bother me. I never was afraid." That's correct isn't it? A. Yes, that's correct.

Q. So he knew what he was doing, didn't he, Doctor?

A. No, I don't think so. It depends on what you mean, sir. I don't understand your question, he knew what he was doing. Maybe -

THE COURT: Doctor, do I understand that you don't understand the question?

THE WITNESS: Yes.

THE COURT: Would you reframe it, Mr. Bill?

Q. He knew then, right from wrong, didn't he?

A. I would appreciate it if you would be more precise in your question. You mean in general or in this particular

situation referred to on page 5? Is that what you mean? I don't understand you, please.

Q. He did know right from wrong, didn't he?
A. You mean in a general way?

Q. What's that? A. You mean in a general way?

Q. I don't understand you, now.

THE COURT: In a general way.

Q. In a general way? A. In a general way.

Q. We will take the general way first. What is your answer to that? A. I believe that superficially he may possibly have had senses of right and wrong, but only superficially, as this man lives in a world of distorted facts.

Q. Are you telling us, Doctor, that this man didn't know it was wrong under the law to rob and to kill? Are you telling us that? A. Yes, I believe that this man didn't know that it was wrong to kill or rob, because as he says, "Society can kill, so why can't I"? He did not follow the rule of society. That is one of his distortions.

Q. Has he always been that way? A. I believe that this distorted sense of values may have developed little by little. Remember this is a fellow who started with anti-social activities when he was five or six years old, living in quite a social or anti-social environment, and I believe that he certainly had developed this distorted sense of values.

Q. You don't think that he knew right from wrong since he was a boy, is that what you say? A. Yes, since he was a boy.

Q. All the way through? A. All the way through.

Q. And yet you will admit, will you not, that all the way through he has denied on most occasions having committed the act in order to avoid a penalty? You know that to be true, don't you? A. Yes.

Q. How do you explain that, if he doesn't know right from wrong, Doctor? A. Very simple, because he doesn't dare to face reality. He doesn't know what reality is. He doesn't know what the situation is. If this man didn't have a defect in his reasoning he would not be sitting where he is. If this man didn't have a defect in his emotions, in his feelings then he would not arrive at such distraught values as he has.

Q. As a matter of fact, didn't he tell you of a crime where he and another person went in a car on a holdup and Taborsky stayed in the car and the other man went in and did the holdup and did some shooting - did he tell you about that? A. I don't remember that.

Q. Weren't you interested, Doctor, particularly in view of your theory that he went out merely to kill just for killing's sake, and wouldn't the most important question be to find out if he ever went on some venture and didn't try to kill? A. I believe life is a little more complicated than that - there are certain situations where things take a certain course - you may not be able to predict and that this possibly might have been a situation where we dealt with men who were having some sort of disagreement between them. Many things can happen. The facts stand out that this man has committed a row of killings.

Q. That is where you start from, isn't it, with the meaning of it? A. I don't start from that. I started from the time he was born - even before that time.

Q. Well, you keep talking about the number of killings and you don't seem particularly interested in the questions I ask you. Aren't you starting with the man when there have been some killings and arrive at your conclusions from that? A. Yes.

Q. So that because a man has killed a number of people, to you that means he is psychotic? A. It may

mean that, but not always. You can only decide this upon full individual examination of the defendant coupled with the history and what you find in your examination.

Q. Did you notice that Taborsky has a very prominent chin? A. Yes.

Q. Don't you think that that fact dovetails in with the point that he made when he said he didn't want anybody to identify him? A. Yes, I believe so.

Q. So he eliminated those people so he couldn't be identified, isn't that true? A. I think you have a strong point there, yes. May I say what I did?

Q. No, you have answered the question. You got all this information in one examination, didn't you? A. No, I have received the information in reports from various schools, from Mr. Burke, from other sources I have here and my examination which took about three hours.

Q. Well, I still ask you the question that so far as any personal examination was concerned, you saw him only once? A. Yes, I am sorry, but I believe you failed to note that this lasted three hours.

THE COURT: No, it would be better if you answered the question. If anything is necessary to be added you will be given an opportunity to do that. I don't mean to reprimand you, but this is a court of law and we have certain rules.

THE WITNESS: I apologize. I examined him only once.

MR. BILL: That is all.

REDIRECT EXAMINATION BY MR. BURKE:

Q. Now, Doctor, Mr. Bill was reading to you from the bottom of page five, and as I recall it, you tried to state he did not completely read the statement. Do you have page five there? Will you read the whole statement

Mr. Bill started to read? A. He started to read, "Why did you kill when you were going out burglarizing?" He answered, "I didn't want to be identified. I really wanted to die rather than being in prison." And then, "I remember, that they were trying to pass a bill here in Connecticut against capital punishmen.. I was sitting in prison at that time and I prayed that they wouldn't pass it."

Q. Now, another question I would like cleared up that you tried to answer - the amount of time spent on your examination. You spent a considerable amount of time, did you not? A. Yes, I did.

Q. Besides the time you spent in face to face interview, you had all the records furnished to you from the different schools and all the background records which I sent to you, did you not? A. Yes, indeed.

Q. Including the psychologist's report? A. Yes.

Q. Now, another statement you wanted to add something to on what Mr. Bill asked you - that the killings occurred because the man wished to eliminate people because of the fear of identification. What did you want to add to that statement, Doctor? I don't believe it was from the report. A. Will you please ask it again?

THE COURT: Yes, read it, Mr. MacGlashan.

(The reporter read the question.)

A. Yes, it wasn't only, I believe, a fear of identification. It was also a real wish, unconscious wish, possibly, to die.

Q. Now, as a result of your examination and based on all the facts of your own knowledge, your opinion is that Joseph Taborsky was unable to distinguish between what was right and wrong? A. Yes, that is correct.

Q. And that he suffers from schizophrenic reaction, paranoid type? A. That is right.

MR. BURKE: That is all, Doctor.

RECROSS EXAMINATION BY MR. BILL:

Q. I don't quite understand you interpretation of page five at the bottom where Taborsky said when you asked him why did you kill when you were going out burglarizing and he answered, "I didn't want to be identified - I really wanted to die rather than being in prison." A. Is that your question?

Q. Yes. A. Well, there again comes that real contrast - his hopes and feelings on the one side of not wanting to be identified, and on the other side his wish to rather die than be in prison.

Q. If he really wanted to die, all he had to do was kill someone and give up? A. Yes, but he may very well have some feeling - not having the courage to do so because he was mixed up in his mind.

Q. There was no question about his courage to do it, was there? It was done time and time again. Are you questioning his courage to do it?

MR. BURKE: How many questions is this, Your Honor? There are two questions at least.

THE COURT: I will sustain the objection.

Q. Have you questioned his courage to do it?

A. Shall I answer that question? I believe he has some courage, but I believe also there are quite a many things intermingled with that courage.

MR. BILL: That is all.

THE COURT: Anything further, Mr. Burke?

MR. BURKE: No, Your Honor.

THE COURT: Step down, Doctor.

* * * * *

JUNE 25, 1957. 4:30 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present.)

THE COURT: May I have the alternates and the jury?

(Jury and alternates present.)

THE COURT may proceed when you are ready, Mr. Bill.

MR. LaBELLE: Mr. Hyland.

JOHN G. HYLAND, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. John G. Hyland.

Q. And your address? A. 73 Ridgewood Road, West Hartford.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Hyland? A. Vice president of the Hartford Despatch & Warehouse Company.

THE COURT: May I suggest that we'd like all these ladies and gentlemen to hear you. Go right ahead, Mr. LaBelle.

Q. Do you have with you the personnel card pertaining to Arthur Culombe? A. I do.

Q. May I see it? I ask you if that is a record card that pertains to Arthur Culombe that is kept in the regular course of the business of your company? A. It is.

Q. And is it the duty of your company to keep that record in the course of its business activities? A. It is.

Q. Is that the personnel card that pertains to Arthur Culombe, who was employed by your company?

A. Right.

MR. McDONOUGH: Are you offering it, Mr. LaBelle?

MR. LaBELLE: I offer it.

MR. McDONOUGH: No objection.

THE COURT: May be marked Exhibit QQ in case 21,666.

(Personnel record card of Arthur Culombe received in evidence and marked "State's Exhibit QQ, Case No. 21,666.")

Q. I show you State's Exhibit QQ and ask you, Mr. Hyland, referring to that exhibit, when was Arthur Culombe hired by your company? A. December 14, 1953.

Q. And when he was hired what was his rate of pay?

A. The Union contract, I believe, at that time was $1.57 per hour.

MR. McDONOUGH: May I have that answer read, Your Honor?

THE COURT: Surely. Read it, Mr. Burke.

(Last answer read by reporter.)

Q. Was Arthur Culombe steadily employed by your company? A. He was.

Q. Until recently? A. He was.

Q. Did his rate of - Withdraw the question. Was there a change in his wage scale since he was employed?

A. There was a change in his rate scale on 4-12-55.

Q. How much was that? A. $1.72.

Q. Is that $1.72 an hour? Was there a change after that? A. 4-11-56, $1.87.

Q. On February 23, 1957 what was his rate of pay? A. 1.87.

Q. Now, that rate of pay was for how many hours per week? A. Forty hours per week; eight hours per day.

Q. Eight hours per day? Was there a contract with the Union pertaining to overtime? A. Overtime after eight hours in one day, or whichever is the greater, forty hours a week.

Q. What type of employment was he doing? What was his classification? A. He was a freight handler, unloading freight from railroad cars and trucks.

Q. Were you familiar with his record of employment? A. I was.

Q. Did you know him while he was employed? A. Did I know him while he was employed?

Q. Yes? A. Yes, I did.

Q. What kind of an employee did you find him to be? A. Good employee.

Q. How was his work in so far as your company was concerned? A. Good work.

Q. I ask you if you have the earning records of Arthur Culombe? A. I do.

Q. Are those records that are kept in the regular course of business of your company? A. They are.

Q. And it was the duty of your company to keep those records in its regular course of business? A. They are.

Q. Are those the originals? A. These are a duplicate, I believe.

Q. Are they a carbon copy? A. It looks like a carbon copy.

Q. Are those the payroll records that are kept by your company? A. Those are the payroll records that are kept by our company.

Q. What are those three sheets that you have? What period do they cover? A. 1954, 1955, and 1956.

Q. You do not have the payroll records with you for 1957? A. No, we haven't.

MR. LaBELLE: I offer those, Your Honor.

MR. McDONOUGH: May it please the Court, I don't believe I'll seriously object, but I'd like to inquire of the State the purpose.

THE COURT: What is the purpose of this offer, Mr. LaBelle?

MR. LaBELLE: It shows his ability as a worker and his earning capacity and his ability to make a living in society.

MR. McDONOUGH: I won't object.

THE CQURT: They may be marked Exhibit RR, in 21,666.

(3 sheets of payroll records of Arthur Culombe received in evidence and marked "State's Exhibit RR, Case No. 21,666.".)

Q. Mr. Hyland, referring to State's Exhibit RR, in January of 1954, take any week ending in January, what were his gross earnings? A. Well, let's take the week of January 16th.

MR. McDONOUGH: What year?

MR. LaBELLE: 1954.

A. $82.81..

Q. And his net take-home pay? A. $73.15.

Q. Take a week in March, 1954. Give us his gross pay for some week. A. 3-20 of the same year, $78.88. $71.00 take-home.

Q. Now go to 1955. Give me one in April.
A. April 9th, $81.98; $75.04.

Q. Give me one in October, 1955. A. 10-1, $60.64; $57.73.

Q. Now, go to 1956 and give me one in July.
A. July 14th, $95.02; $93.39.

THE COURT: 93 -

THE WITNESS: - .39.

Q. Give me one in November, 1956. A. 11-17, $82.28; $79.34.

Q. From the records of your company, Mr. Hyland, what was Arthur Culombe's record of attendance at his work? A. Good attendance.

Q. Did he lose very much time by absenteeism for any particular reason? A. No; steady employee.

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Was his work brain work? A. I didn't hear the question.

Q. Was his work brain work? A. I didn't hear it.

Q. Mental work or laboring work? A. Laboring work.

Q. He was on what is known as a bull gang, isn't that right? A. Well -

Q. Among teamsters and truckers aren't men of that type known as working on the bull gang? A. Years back; but we have machinery for that now.

Q. But that's an expression used for that type of work, isn't it? A. That's right.

Q. And that's the kind of work that he did?
A. Unloading -

Q. Bull, laborious work? Hard work? Isn't that right?
A. Yes.

Q. And he was paid according to the Union rate, wasn't he? So he got paid, Mr. Hyland, for his time and his hard work, isn't that right?

THE WITNESS: What?

THE COURT: Will you say it out loud?

A. He got paid for his work just like he performed services working for the company.

Q. And he had a man telling him what to do, help unload this truck, or help unload that car, and he would do it, isn't that right? A. Correct.

MR. McDONOUGH: Thank you, Mr. Hyland.

THE COURT: You may step down.

EARL H. ALLEN, a State's witness on rebuttal, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Earl H. Allen.

Q. Your address? A. 87 Henry Street, Windsor.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Allen? A. I am a foreman at the Hartford Despatch in East Hartford.

Q. In the course of your duties did you come to know Arthur Culombe? A. Yes, I did.

Q. How long have you known him? A. Oh, since 1954 when he first came to work.

Q. What was your connection with him in your work?
A. I was his supervisor and foreman - I told him what to do.

Q. Were you his foreman during all the time he was employed by your company? A. I was, yes.

Q. And he was employed until when? A. Just recently.

Q. Would it be February of this year? A. Could be, yes.

Q. Tell the Court and jury what your observations of him as an employee were and how he did his work?
A. I would say he did a very good job; he never gave me any trouble, was always on time, always willing to do a little bit extra for you.

Q. Was he able to carry out instructions?
A. Yes, he carried out instructions.

Q. In connection with the work he might have to do?
A. Yes.

Q. Was there any difficulty in his carrying out your instructions? A. No.

Q. How would he carry out orders, in what manner?
A. It was a labor type of job and he would go right into it like any average man we had over there.

Q. Any difficulty with him as an employee?
A. No difficulty.

Q. How was he as far as attendance at work was con-

cerned? A. He was there every day to be right there on the job.

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. He was a good man, in other words? A. Yes.

Q. And when you told him to help unload that work he would go ahead and unload it? A. Yes.

Q. Or any other labor work you had? A. Yes.

Q. He was a man who couldn't read or write, you knew that? A. Well, I didn't know that until he was there quite some few years.

Q. But you found that out? A. Yes.

Q. And he did hard laboring work, and he was on the job every day, isn't that so? A. Yes, sir.

MR. McDONOUGH: That is all.

MR. LaBELLE: That is all we have tonight, Your Honor.

THE COURT: Ladies and gentlemen of the jury, I am going to excuse until tomorrow morning at ten o'clock with the usual instructions. You will talk about this case to no one or allow anyone to talk to you about it. Should there be anything in the newspapers you will not read it, or if there is any comment on the radio or television ignore it, and when you report tomorrow morning, report to your respective rooms.

(Accused escorted from the courtroom)

(Adjournment at 4:46 P.M.)

WEDNESDAY - JUNE 26, 1957

THE COURT: Bring up the accused, Sheriff.

(Accused present in the courtroom at 10:16 A.M.)

THE COURT: May I have the jury and alternates, Sheriff?

(Jury and alternates seated at 10:20 A.M.)

THE COURT: Good morning, ladies and gentlemen. May I say to the jury now so that I won't forget it, that if you desire to come in without your coats at anytime during the day or further progress of this trial you may do so.

Are you ready to proceed, Mr. Bill?

MR. BILL: Yes, Your Honor. Doctor Bancroft?

HAROLD A. BANCROFT, a State's rebuttal witness, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Harold A. Bancroft.

Q. Your address? A. Farmington, Connecticut.

DIRECT EXAMINATION BY MR. BILL:

Q. What is your profession? A. I am a Doctor of Medicine.

Q. And a psychiatrist? A. I specialize in psychiatry.

Q. For how many years? A. Well, it's well over thirty.

Q. What is your medical background and education, Doctor? A. I am a graduate of the Albany Medical College. I attended training at the Albany Hospital in Albany, New York. I was then at the Hartford Retreat, now known as the Institute of Living.

Q. How long were you there? A. From 1916 until 1923 excepting for a period of service in the Medical Corps of the United States Army during the other war.

Q. Did you do psychiatric work in the Army?

A. I did, I was sent to the United States Disciplinary Barracks at Fort Leavenworth, Kansas and spent seventeen months there in the Department of Sociology and Psychiatry.

Q. I think you got as far as having spent some time at the Hartford Retreat up to 1923 - and what happened after that? A. I went into private practice.

Q. Have you been in private practice ever since?

A. I have.

Q. Starting in 1923? A. Yes, sir.

Q. Along with your private practice, have you also made examinations and reports to the Courts in connection with criminology, Doctor? A. I have.

Q. And what connections have you had in that respect? A. Well, for over thirty years I have been examining for the Hartford City Police Court and I have examined persons accused of crimes in New Haven County, Windham County, Tolland County and Hartford County.

Q. Have you for some years been requested by the State's Attorney's office to examine psychiatrically accused that are charged with crime? A. I have.

Q. Have you been called by different attorneys at various times about the State? A. I have.

Q. And have you on many occasions been appointed by the Court as a member of a commission to examine accused? A. I have.

Q. And as to their mental capacity? A. Yes, sir.

Q. Now, Doctor, what medical organizations or societies are you connected with, if any? A. Well, the usual societies - Forensic Sciences.

Q. Did you at sometime examine psychiatrically Arthur Culombe? A. I did.

Q. And when was that? A. I examined Arthur Culombe on March 2, 1957.

Q. And where? A. At the Hartford Barracks of the Connecticut State Police.

Q. Were you alone in the examination or in the company of somebody else? A. I was not alone - I was accompanied by Doctor Chester Waterman.

Q. Is he a psychiatrist? A. Yes, sir.

Q. And where does he reside? A. In Middletown or Portland, I believe.

Q. Now, in connection with that examination, who was present - just you and the other psychiatrist and Culombe? A. That is right.

Q. Have you notes in respect to your examination?
A. I have.

Q. And will you examine those notes and first tell us what was the commencement of this examination?
A. Well, the commencement was the obtaining of a past history.

Q. And will you tell us what you found - is that in the form of questions and answers of the accused?
A. Yes, sir.

Q. Will you tell us what you found in relation to his past history? A. He gave us social data to the effect that his name was Arthur Joseph Culombe, that he lived at 20 Coleman Drive in Hartford; that he was born in Fall River, Massachusetts, on the 28th day of February, 1924; that he had been in Connecticut since 1941; that he was a freight man at the Hartford Despatch and Warehouse Company and that he had been married fifteen years.

Q. Did you question him on his past history?
A. I did.

Q. And what did that consist of? A. Well, we inquired about his education.

Q. First off, before you get into that, can you remember or from your notes testify or describe how Culombe appeared to you at that time? A. He was thick set - a thick set man, blunt features, calm attitude, little play of facial expression, responsive and cooperative in a rather vague way.

Q. Will you go into the past history, please?
A. He stated that so far as he knew, he had been strong and healthy as a boy; that he had no operations, that he had gone to school until he was about sixteen; that he received low grades due to "skipping"; that "I didn't have my mind on school"; that he had reached the third grade in Fall River and had been in the special third grade for fellows slow in learning. He stated that after he had stopped school, he worked in bowling alleys about a month and then he became involved in trouble; that this was a matter of theft of a car with another fellow; that he was in court in Brockton, Massachusetts; that he was sent to Bridgewater State Mental Hospital where he remained thirty days, after which he was taken back to the high court and that he then was sent to the Wrentham State School for Boys where he remained about two years; that while he "wandered away a couple of times"; that finally "they didn't bother with me anymore". He remembered that he then came to Hartford, Connecticut - that it was about 1941 and that he had been in Connecticut since; that he had married about six months after coming to Hartford. He stated he worked as a dishwasher in restaurants at first, remembered being in the Star Lunch, later at Longley's Lunch and also the Dunwell Diner, which he said was across from the Bond. He stated he continued at this work until 1944 and then "got in

trouble". He stated that as a result of the trouble he was sent to the State Reformatory for about eighteen months on a charge of breaking and entering and theft. He stated that after release he returned to work in the restaurant washing dishes, remaining in this position about one year and that from then until 1950 he worked in about seven other restaurants in the same capacity. He remembered being at Barbee's Luncheonette and the Little Ritz and he remembered being back at Dunwell's Diner again.

He said about 1950 he obtained employment at the Maxim Silencer Company where he was a helper working on grinders and filing, that he remained there two or three years, and that he got sick of it because it was the same old work and quit. He stated he was then idle for a time but looking around for a job, but that before he found work - "I got mixed up with fellows". He explained that in company with others he "held up places and got caught". He thought this was 1950 or 1951. He said he was sentenced to the Connecticut State Prison for two to four years on a charge of robbery with violence; that he served thirty months; that when released he went back to work for the Hartford Despatch and Warehouse Company. He thought this was about December, 1953. He stated he continued at this job, that he had been there about three and a half years and until his recent arrest; that he earned about seventy-six dollars after deductions weekly. He estimated that the last day he had worked at the above place was about one week ago yesterday.

Q. Did you ask him about his habits, Doctor?
A. I did.

Q. What was the result of that?

MR. McDONOUGH: I didn't get that question?

THE COURT: Will you read it, Mr. MacGlashan?

(The reporter read the last two questions.)

THE WITNESS: He stated he drank a little, and asked to explain how much, he said "A couple of beers and a couple of shots of whiskey two or three times a week". He estimated he became drunk perhaps once or twice a week. He believed that the above amount of liquor made him feel cheerful. He denied the use of marijuana or products of any kind of the so-called drugs or involvement in the selling of any drugs.

Q. Did you question him about his past medical history? A. I did.

Q. And the results of that examination- A. He denied having any serious illnesses, but when asked if he had any venereal diseases, he stated that he thought he had had - I am substituting another term for the word he used - that he had had a social disease a few times.

Q. Did you go into the question of his recreation? A. I did.

Q. What did you find from that? A. Well, he stated he enjoyed playing baseball and football and basketball and swimming when young, but that after he was eighteen years old "it was just work".

He stated that he had had the usual interest in girls, he had gone out with two or three girls although not steadily before he was married. He denied any abnormal means of sex gratification.

Q. Did you learn about his family life? A. He stated he had married after an acquaintance of about six months, described his wife as a nice decent girl, he thought he could settle down with her and go straight, but he added "it didn't go that way". He claimed that the marriage had been satisfactory, that he and his wife had been compatible in their sex relationship, and that he had two daughters one, Jo Ann, aged thirteen, who recently had the mumps

but otherwise was well, and another, Sandra, aged five, well so far as he knew. He stated he had been living with his wife at their home until his arrest.

Q. Did you find out whether or not he was literate or illiterate? A. I asked him if he could read and write and he said he never could read or write. We asked him if he could sign his name and he said he could and on requesting him to sign his name, the writing was poor but it was legible.

Q. Did you find out anything about his family history from him? A. I did.

Q. What was it? A. He stated his mother was alive and well, about forty-five years old, that his father George was alive and well so far as he knew; that he was a roofer and living in Fall River, Massachusetts, and a man who likes to drink, that he had three brothers, George, thirty-five, married, a machinist, and apparently settled down in life; and Edward, twenty-two, single, who had worked at odds and ends, not steady, that he had been in few odds and ends of trouble but not serious, not in jail - for breaking in.

He stated that he had a third brother Norman, who was about nineteen or twenty, single, and about ready to enter the Navy. He had one sister whose age was "right after me, about twenty-seven", who was married and living with her husband. He knew of no mental or nervous diseases in any of his relatives. He claimed that he got along very well with his parents but he said that he had some fights with his brothers.

Q. Now, did you go into his past trouble and arrests since the time that he was a boy? A. I did.

Q. And will you relate what he told you there?

A. When asked he stated that in 1939 he had been arrested -

MR. McDONOUGH: I object.

THE COURT: Do you claim this, Mr. Bill?

MR. BILL: It is matters, I understood, that were brought up on the direct by Mr. McDonough, and I was covering his past boyhood history that he covered. I didn't intend to bring out anything that he had not. If he thinks that it is repetitious -

MR. McDONOUGH: No, I don't think that, but I thought that he was going up to the present time. I went through the boyhood history and I think that the State's Attorney should stop there, and apparently he is going to, so I will withdraw the objection.

THE COURT: Very well.

Q. Doctor, will you confine your -

MR. BILL: Before I ask the question, Mr. McDonough, would that take us up to 1941 when he came to Hartford?

MR. McDONOUGH: That's right, up to leaving Wrentham.

MR. BILL: After he left Wrentham?

MR. McDONOUGH: When he left there.

Q. Confine yourself to that, Doctor. A. Yes, sir. He stated that in 1939 he had been arrested in Brockton, Massachusetts for theft of an automobile and disposed of as mentioned previously. I had mentioned that as part of the facts that he gave me before. He also stated that "Before that there was a couple breaks", and that he had been sent to the Lyman School for Boys, where he remained about six months and where he had "Little odds and ends of difficulty." He explained these difficulties were scraps with other inmates or because "I'd take off." He thought that he was about thirteen or fourteen years old at that time.

Asked what else, he estimated that after leaving the Lyman School for Boys he had been in trouble three or four times for "just broke and stole." When asked, he stated that he stole cigarettes and saws and tools. In response to a question he explained that he "Got in with the same gang again", and was sent to the school again and that he thought that he was at the school eighteen months at that time. He stated that after he was out and when about sixteen he took the car in Brockton.

Q. Then he came to Hartford, is that right?
A. There were no more until he came to Connecticut.

Q. Now, Doctor, did you discuss with him the episode in New Britain at Kurpiewski's Gas Station?

MR. McDONOUGH: I object.

MR. BILL: I claim it.

THE COURT: I will let him answer either "yes" or "no" anyway.
A. I did.

MR. McDONOUGH: I would like to know the purpose of that question. It wasn't within the defense at all.

THE COURT: Well, I would allow the question to stand as a fact that he did talk to him. That's all as of now.

Q. And what did he say?

MR. McDONOUGH: I object.

MR. BILL: I claim it.

MR. McDONOUGH: There is nothing in Culombe's defense about the New Britain incident at all. It wasn't even mentioned. I don't know what the State's Attorney is trying to rebut.

THE COURT: What is the purpose of it?

MR. BILL: Of course, this is a mental examination. It is to find out whether this man knows right and wrong, particularly in the question of the crime as charged and the incidents that took place as related, and all the things that the psychiatrist has to use to judge from, and the question of whether he had the mind and capacity to understand the act, and that's all, and that's what we are here for, this particular case, to learn of his mentality.

THE COURT: I know that you know this, Mr. McDonough, but when it comes to the question of sanity, which the State has the burden of proving, the objection that it is not rebuttal in itself is not necessarily a valid objection because under our procedure, as you well know, there is a presumption of sanity that the defense has, if they desire, and you have raised that defense, I take it, of his mental incapacity?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: Now, I take it that the State is in the position of offering evidence to prove the sanity, so the fact that it is not rebutting anything is not necessarily, would not necessarily make it excludable.

MR. McDONOUGH: No, but this is outside of the scope that was offered by the defense now. It leaves this also an erroneous foundation if the State wants this question to stand upon. The State's Attorney's statement alone to the Court, he is offering this for so and so, this question is now for the jury to determine what happened in New Britain, he isn't offering any defense as to that New Britain situation at all. He hasn't even, except for his plea, offered a denial. Now the State is offering to produce a conversation relating to that New Britain matter. They are going too far, if it may please the Court.

MR. BILL: Your Honor, this isn't offered in proof of what took place down there.

THE COURT: No, I know that it isn't.

MR. BILL: It is put in there so that the Doctor can judge the mental competency or incompetency of this accused, and as Your Honor stated, I am not confined to what Mr. McDonough put in as to the mental capacity. In the case itself for the defense I was confined to questions and answers on his mental capacity because that is all that he put in. I couldn't go into the general offense and I didn't do it. But now I am meeting mental examination and evidence with his testimony and I am not confined to what he had to say about it.

THE COURT: The Court agrees with everything that you said, substantially, but the fact is in evidence that he talked about the New Britain incident. Now you are asking that the witness be allowed to testify as to what he said about that. I agree with Mr. McDonough. I will sustain the objection.

Q. Did you learn from Culombe that he was acquainted with Joseph Taborsky? A. I did.

Q. Did you learn from Culombe whether or not they had associated with each other?

MR. McDONOUGH: I object.

THE COURT: I'll allow him to answer that "Yes" or "No".

MR. BILL: I will withdraw the question.

Q. Doctor, did you come to a conclusion from your examination as to the category of mental status that Culombe was in? A. I did.

Q. And what is it? A. I consider him to be a mental defective of the grade of high moron.

Q. Did you determine whether he knew right from wrong? A. I did.

Q. And what was your conclusion? A. I concluded that he did know right from wrong.

Q. Did you conclude, make a conclusion as to the question of whether he is psychotic, which I understand is another expression for insane, or not psychotic?

MR. McDONOUGH: I object to the form of that question.

MR. BILL: I will withdraw it.

Q. Did you come to any conclusion as to whether he was psychotic? A. I did.

Q. And what was your conclusion? A. I concluded that he was not psychotic.

Q. And when you say "not psychotic", what do you mean? A. For purposes of the courtroom I mean that he was not insane.

MR. McDONOUGH: I object to "for purposes of the courtroom". I object to the form of the answer and move to strike it out, "For the purposes of the courtroom."

THE COURT: May I hear the answer?

(Last answer read by the reporter)

THE COURT: I will strike out the words "for the purposes of the courtroom." The jury will disregard it. I'll allow the rest of the answer to stand.

Q. Is there another terminology or expression for the word "psychotic"?

A. "Psychotic" is a technical term that the medical profession uses.

Q. What does it mean? A. It means very serious deep seated mental illness in which a person is so divorced from reality that he is unable to make adjustments to

reality, is incompetent and requires restraint in some kind of a mental hospital.

MR. McDONOUGH: May that answer be read, Your Honor?

THE COURT: Will you read it, Mr. Burke.

(Last answer read by reporter)

Q. Is being psychotic - that's withdrawn. Are "psychotic" and "legal insanity" synonomous?

MR. McDONOUGH: I object. That is for the Court - the Court will charge the jury as to the law, and the jury will find the facts in accordance with the Court's instructions. Witnesses do not determine what legal insanity is. The Court and jury does.

THE COURT: I am going to sustain the objection, but not on that ground.

MR. McDONOUGH: Any ground at all suits me, Your Honor.

THE COURT: I appreciate that. But I am going to sustain it on the ground that the witness has been qualified as a psychiatrist and has not been qualified as a legal expert.

Q. Was he psychotic? A. He was not.

Q. And is he now? A. No.

Q. You said that he knew right from wrong?

MR. McDONOUGH: I object. This is repetitious.

THE COURT: Sustained.

MR. BILL: I am asking -

MR. McDONOUGH: It has been asked and answered. I object.

THE COURT: I sustained it.

MR. BILL: All right.

Q. Let me ask you, Doctor, did Culombe at the time of your examination have the mind, the capacity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him, that the act is wrong and criminal and the commission of it will justly and properly expose him to penalty? A. I concluded -

MR. McDONOUGH: Just a moment. I object. Mr. Bill is reading from the Donahue case and as Your Honor has said, the witness is not a legal expert.

THE COURT: That is true. He isn't being asked for a legal opinion.

MR. McDONOUGH: It amounts to the same Your Honor.

THE COURT: No.

MR. McDONOUGH: I object to it because he is asking the witness a question based on a rule of law laid down by the Supreme Court of this State that Your Honor will probably charge the jury on. The jury will be asked to judge the facts. This witness, if allowed to answer the question will be placed in the position of the jury.

THE COURT: No, it isn't true, Mr. McDonough, and it isn't a ground for sustaining the objection. It is true that that will be the function of the jury to determine whether or not he legally has that capacity, but this witness is being asked to testify as a psychiatrist and under our rules the jury is entitled to the benefit of his opinion. What weight they give to that is for them to determine under proper instructions from the Court. I will overrule the objection.

MR. McDONOUGH: I object because the State's Attorney hasn't finished the whole statement in the Supreme Court decision. He should finish it.

MR. BILL: I can finish it by another question.

THE COURT: I will overrule the objection.
MR. McDONOUGH: Exception.

THE COURT: Do you recall the question, Doctor?

THE WITNESS: I believe so, sir.

THE COURT: Will you answer it, if you do?

A. In my opinion Arthur Culombe has sufficient mental capacity to have the necessary mind, capacity, reason and understanding to know that the acts that he committed were wrong and unlawful and justly punishable at law by serious penalties.

Q. Did you find his mind to be so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act? A. I did not.

Q. Doctor, it was noticed that in your answer, instead of answering me "yes" or "no" you repeated a phrase of your own which did not in full measure up to the question I asked you, and I would like to ask that again and get a "yes" or "no" answer.

MR. McDONOUGH: Then I want the last answer stricken out if the State's Attorney wants to ask the question again and get a different type of answer.

THE COURT: I will grant both motions and instruct the jury that the answer that the witness gave be stricken from the record and you are to disregard it in its entirety. Go ahead, Mr. Bill. Or do you want the question read?

MR. BILL: No, I'll frame it.

THE COURT: All right.

Q. Doctor, from your examination have you an opinion as to whether Arthur Culombe had the mind, the cap-

acity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him, that the act is wrong and criminal and that the commission of will justly and properly expose him to penalty? A. I do have an opinion.

Q. And what is your opinion? A. That he does have all of the qualities that you just read to me.

Q. I now ask you whether or not in your opinion his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act?
A. I do have an opinion.

Q. And what is that? A. That his mind is not so diseased that he could not resist an impulse to commit a criminal act.

Q. Diseased or abnormal, the question was.
A. Diseased or abnormal. Either one or both.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Doctor, what is insanity - I'll withdraw that question. What psychological tests did you make of Culombe?
A. I made no specific psychological test or tests such as are made by a clinical psychologist.

Q. Why not, Doctor? A. Because a clinical psychologist ordinarily makes those tests and I had the benefit of the tests made by the clinical psychologist.

Q. That was Mr. Ibelle? A. And also because with experience I was able to form an opinion as to the intellectual level of Arthur Culombe, myself.

Q. Did you receive a report from Mr. Ibelle?
A. I did.

Q. Is that the clinical or psychological test that you had the benefit of in this case? A. I beg pardon?

Q. Is that the psychologist's test that you had the benefit of in this case? A. Well, I had it for my information, yes.

Q. From Mr. Ibelle? A. That is correct.

Q. I beg your pardon? A. That is correct.

Q. Mr. Ibelle, as you know, was appointed by this Court to serve both the defense and the State, wasn't he?
A. I know that.

Q. Do you agree with Mr. Ibelle's conclusions?
A. Not entirely.

Q. Well, do you agree with the IQ given Culombe by Mr. Ibelle? A. I would not dispute it.

Q. Do you agree with the mental age that Culombe is found to have by Mr. Ibelle? A. I would not dispute that.

Q. Did you have the benefit - question withdrawn. When you saw Culombe on March 2nd, at the State Police Barracks, you were with Doctor Waterman, were you not, Doctor Bancroft? A. I was.

Q. Did you make any tests on that occasion?
A. We made a psychiatric examination, which is a test.

Q. And what was that examination? A. The evidence of the history, and finding out as to the man's state of orientation, state of his memory.

Q. And how did you determine his state of orientation? A. By asking him questions.

Q. Is that a psychiatric examination? A. That is a part of a psychiatric examination.

Q. Is that the only examination that you gave him on

March 2nd? A. A psychiatric examination is the only examination that we made March 2nd, if that answers your question.

MR. McDONOUGH: No, it does not. May the answer go out and the question be read, Your Honor?

THE COURT: The answer may go out. Will you read the question, Mr. Burke?

(Last question read by reporter)

A. I believe that I was in the midst of trying to explain the examination I made when I was interrupted by another question. I said that we asked questions to determine whether or not Mr. Culombe was oriented and to determine the status of his memory, and we asked questions and made observations as to his stream of speech and his emotional tone, we asked questions to determine whether or not he had delusions and hallucinations, we asked questions to determine whether or not he had insight into the situation that he was involved in, and in general questions about his judgment.

Q. Is that your answer, Doctor? A. Yes, that in general was the ordinary psychiatric examination.

Q. How much time, Doctor, did you spend in that type of an examination which consisted of asking questions?
A. Somewhat over two hours.

Q. About two hours? Now, on how many more occasions did you talk to Culombe? A. I saw Culombe on one other occasion, at which no psychiatric examination was made.

Q. So you haven't referred to that in your direct examination because no psychiatric examination was made?
A. No second psychiatric examination was made by me.

Q. Just this one consisting of a two hour examination? A. That is right.

Q. And on that examination you based the conclusions or have arrived at the conclusions that you have given to this Court and jury? A. That is right.

Q. And you realize, Doctor, that your conclusions after two hours are being given to this jury - to this Court and jury, to be taken with examinations that took, one in the Bridgewater State Hospital, thirty-eight days, and the other for over a year in the Wrentham State Hospital? You realize that?

MR. BILL: I object, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Surely.

Q. Doctor, what is a mental defective? You have classified Culombe as a mental defective. A. Well, a mental defective is one whose mental development has been arrested since birth or early age.

Q. I didn't get the last part of the answer.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the last answer.)

Q. So you would classify Culombe as a young man whose mental development has been affected from birth or early age? A. I didn't get that one word in there - affected.

THE COURT: I will have it read. Read it, Mr. MacGlashan.

(The reporter read the last question.)

A. Well, I used the word "arrested" and I will stick to it.

Q. It is all right with me, Doctor, I have no quarrel with that. As a matter of fact, do you know, Doctor, that it began at birth with Culombe - the arrest of his mental development? A. I don't know that it began at birth or began at an early age.

Q. Well, his mother testified here, Doctor, that at birth there was a question about his mental status. You didn't know that, did you? A. No, I didn't know that anyone could determine at birth the question of arrested mentality.

Q. She testified that at birth she was told.

A. I don't think, as a doctor, one could determine such a thing at birth.

Q. Well, she testified - his mother - that after examining the baby she was told that something was wrong with this baby's brain and that it could never be right.

A. Well, if it was something obvious or a visible defect of the child's skull - a monster, so-called - I think probably a doctor could at birth inform a mother of such a condition.

Q. Well, the testimony is that through Mrs. Culombe, she was so informed, so if such a condition was obvious to a doctor and he made such a statement, it is fair to say that this arresting started at birth, isn't that so?

MR. BILL: Objection, Your Honor.

THE COURT: I am going to sustain it. There are too many ifs involved there.

Q. I think there are and I will withdraw it. If such a situation existed, Doctor, it could have been an arrest of development at birth, couldn't it? A. It could have been at birth, yes - I said so.

Q. You and I aren't quarreling up to this point and I don't think we will.

THE COURT: I am sure you will not, Mr. McDonough, just stay with the questions, please.

Q. There is evidence here that up until the time Culombe was ten years old he couldn't put his shoes on right, didn't know which foot they went on. Would that indicate anything from a mental standpoint? A. It might indicate some slowness of learning how to tie one's shoes.

Q. I think the hospital records of Wrentham State School and the Bridgewater Hospital show a dullness and a slowness. Now, at what age in the course of a normal adult or average adult is the general mental development. The reason I asked this question is that there was some testimony here from a psychiatrist that the age of fifteen or sixteen is the age at which they can determine pretty well from a psychological standpoint the intellectual standpoint the intellectual standard of that individual. Do you know anything about that? A. Well, I think in doing psychometric or psychological tests - in the early days the age of fourteen was used as the point at which maximum development was reached, and then in later years the age of sixteen was used as the maximum point at which development was reached, and I gather from what you just said, somebody testified that it was fifteen or sixteen and I wouldn't dispute that.

Q. Now, Mr. Bill asked you a question and held in his hand a book, which I believe was Volume 141 of the Connecticut Supreme Court Reports - State against Donahue, and he read to you from that book. Before you were called to testify did anyone from the State's Attorney's office call to your attention, with the purpose in mind that you knew, what he read from that book? A. No, I learned that years ago from Doctor Roy Leeke, who gave me a copy

of a report at sometime when we were examining someone in Windham County.

Q. In other words, you knew about this from some other occasion in the past what the State's Attorney read you? A. Well, I had what I thought was a correct idea of what constitutes legal responsibility for serious crimes.

Q. Well, I will read to you now a different definition of a mental defective or a person who has a low mental age, which is the test on Culombe. I will read from the Supreme Court Decisions in this State, Volume 39 page 593. Before reading it to you, I call your attention that the testimony in this case, the expert testimony, shows that the accused Culombe's mental age is between nine to ten years - nine and a half years as his mental age. Wouldn't you say that is an age that could be classified as tender years?

A. Well, if he were a child of the same chronolical age, yes, but in an adult man in his thirties, I would be reluctant to say he was a man of tender years. He has had considerable experience in the world.

Q. Isn't that mentally a child of ten years - nine and a half years? A. It is impossible to liken an adult man with an intelligence quotient of sixty with a child with a mental age - I think you said nine years - you can't liken such a person to a child of that age.

Q. Well, Doctor, a man of thirty-three with a mental age of nine and a half years - is mentally how old?

A. You said nine and a half years.

Q. Yes. A. I don't dispute that.

Q. We will drop the word "man". A. I would say he is a high grade moron.

Q. Children of tender years have some sense of right and wrong, isn't that so?

MR. BILL: I object to the use of "tender years". I don't think that is proper.

THE COURT: I will overrule the objection. You may answer.

Q. Children of tender years have some sense of right and wrong, isn't that so? A. I can't answer the question until you specify what are tender years.

Q. A child nine and a half years of age. A. Yes, I think I would say so, if they were properly brought up.

Q. Well, that is a question, perhaps - properly brought up - what do you mean by that? A. Well, growing up in a family where they were taught ethics.

Q. In an average family - not a monied or educated family? A. I hope the average family is like that.

Q. So you would say a child of nine and a half years of an average family has some sense of right and wrong, isn't that so? A. Yes, sir.

Q. And should understand that punishment will follow transgression? A. Well, they understand to some degree. I don't think a child of nine and a half would understand the legal involvement or complications.

Q. I mean punishment like a spanking? A. That is right.

Q. And if children are subjected to the discipline of their parents, generally punishments are received for some wrongdoing, isn't that right? A. Yes.

Q. But from your observation, Doctor, as an expert in your field, your age in life, don't you think your sense of humanity would be greatly shocked at the thought of subjecting those children to the penalties of our statute law because of some sense of right and wrong and fear and punishment that has been developed in them - don't you think

your sense of humanity would be shocked? A. I will have to have that again.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. You know Doctor Lieberson quite well, don't you? A. No.

Q. You know the gentlemen? A. Yes, sir.

Q. As a matter of fact, you testified as a witness in court, didn't you, in this case when we asked for the appointment to take a brain wave test and you recommended him? A. I remembered I testified here in court before Judge Bordon when there was an application made for a psychological test. I have no recollection of the testimony.

Q. Don't you recall you were called to the stand by Mr. Bill and I examined you and you said Doctor Lieberson was one of the best men in the field? A. I don't recall it - it may be so.

Q. You know the man? A. Yes, and I respect him as an authority in his field.

Q. And he did make his brain wave test and testified in court and I have his testimony here. I will read his report under impressions. "This record does not show any gross abnormality. There is no specific or focal pattern. There is mild nonspecific epileptic deviant patterns which might be related to personality disturbance. This finding might be re-investigated."

Now, would that have any connection, so far as you know or can see with Culombe as you found him during your examination?

MR. BILL: Objection, Your Honor.

THE COURT: What is the objection?

MR. BILL: The objection is that this is evidence apparently that he is quoting from the doctor and has nothing at all to do with this examination and it is not put in the form of a hypothetical question. It is put in the form of a statement concluding a fact as a finding. It is not put in the form of a hypothetical question, but he asks the question and asks the jury to accept that on facts which are not in evidence.

THE COURT: That goes to the weight of it and I will overrule the objection. Would you read the question, Mr. MacGlashan?

(The reporter read the question.)

MR. BILL: An exception, Your Honor?

THE COURT: Surely.

A. Well, it isn't meaningful to me. It is quite likely that any mental defective given an electro encephalogram might show what Doctor Lieberson reported.

Q. Now, Doctor, what is a psychosis? A. Psychosis is deep seated mental illness in which a person becomes divorced from reality. They are unable to adjust to real life or reality and are incompetent and in general they need treatment and restraint in a mental hospital.

Q. Well, what do you mean by being divorced from reality? A. Well, they are living in a world of hallucinatory experience or delusional ideas. You get away from reality. For instance, if I thought I was sitting here on Mt.

Olympus right now, I would have the right to say I was completely divorced from reality.

Q. I know you are using that as an example, but can't a person be insane without having hallucinations?

A. Yes.

Q. And without having delusions A. Well, that is debatable as to whether a person can be - you are using the word "insane". I am using it purely because you do - it is debatable whether or not a person could be psychotic. I would like to use that term if you permit it. It is debatable that a person could be psychotic without having delusions or hallucinations or some profound emotional disturbance.

Q. Well, a person could be psychotic without having delusions or hallucinations, couldn't he? A. It is possible.

Q. Now, by being divorced from reality, couldn't a man be divorced from reality and go about and do his daily work? You don't mean that, do you? A. I mean pretty much to the point of being a person who is not able to carry on in society and make the necessary adjustments.

Q. You mean that whatever they have that conflicts with society, whether or not they are unable to get rid of it and despite their daily work and taking care of their obligations, they cannot get rid of this one thing that is disturbing them? A. I don't mean that their mind, because of the rift and curbed processes - that they cannot go about their usual functions in society and observe the requirements of society.

Q. Haven't you found from your experience, Doctor, that there are many persons making their livelihood, going about their daily work, that in some respects are insane?

A. Well, I can't quite believe that there are many I have found. I have never seen anybody insane who is going about his daily work without committing some act that at-

tracted so much attention that authority of some kind stepped in and took care of it.

Q. I will call your attention to a case we tried here about a year and a half ago before their Honors, Judge Shannon, Judge Murphy and Judge Thim, in which you were a witness, the State against Guinan. Do you recall that case? A. Yes, sir.

Q. A murder case. He was certainly psychotic, wasn't he? A. Yes, he was psychotic.

Q. He shot two men and one of them died?
A. Correct.

Q. And weren't the facts in that case that he had been psychotic for sometime - several years after being released from the Army before the murder was committed?
A. He had been psychotic for sometime before he committed the murder - I don't remember how long.

Q. Well, sometime? A. Somebody had noticed something about it - I think his mother had - but nobody had done anything about it.

Q. But he had been about his daily work at the Post Office and in social activities until it broke out in the killing at the drugstore? A. I think probably that is so. I don't know how long he went on after his Post Office employment before the authorities stepped in.

Q. This trial to which I am referring took place in December of 1955 for a killing that took place about March of 1954, as I recall. Will you agree with me, approximately?
A. I haven't any idea of the dates.

Q. He was in the service, wasn't he, during the war that ended in 1945?

MR. BILL: I object to this.

Q. Isn't that so?

MR. BILL: I object to this line of questioning.

A. I don't recall -

THE COURT: Wait, Doctor.

MR. BILL: We are trying a case within a case. I think that it is all collateral, immaterial.

MR. McDONOUGH: It isn't collateral. It would be almost in the class of a hypothetical question, and I am asking the doctor a matter of fact in order to establish how the doctor - I tried to straighten it out - if he is psychotic it will break out, and I want to show that this man went for about nine years about his daily work.

THE COURT: Of course, Mr. McDonough, I take it that we are now rapidly approaching the question where my discretion will be involved. I think you are perfectly justified in going as far as you have gone, and I intend to allow this question. I think that there ought to be a terminus or we will be going into collateral matters.

MR. BILL: I move that that statement about nine years be stricken.

MR. McDONOUGH: I will withdraw the period of nine years.

Q. It is a fact, isn't it that in that case Guinan went a number of years in which he was definitely a psychotic before he broke out and killed? A. I don't know the exact time. I don't have my record.

Q. Several years? A. No, I wouldn't even know that. It was some weeks, at least, and maybe longer, but I don't think that it was nine years or seven years.

THE COURT: He withdrew that.

Q. Now, what is insanity? A. Insanity is a legal term.

Q. I know, but what is it? A. And it is for the lawyers and for the Courts, I think, to define.

Q. The doctors help quite a bit?

MR. BILL: I object to the question. I asked the question and it was ruled out as a legal term, and I had to go back -

MR. McDONOUGH: I will withdraw the question.

THE COURT: It is withdrawn.

Q. Is there a medical definition of insanity, Doctor?
A. I don't know of a medical definition of insanity. It is undoubtedly in Webster's ordinary dictionary.

Q. Well, he wasn't a doctor, was he? A. Not that I know of. He might have been a Doctor of Philosophy, or letters.

Q. He didn't write any medical dictionaries, did he?
A. Not that I know of.

Q. There are medical dictionaries, aren't there?
A. Yes.

Q. Do medical dictionaries define insanity? A. I have found that medical dictionaries do not give a very clear cut definite substantial definition of many things that are psychiatric.

Q. Well Doctor, can you as a doctor tell us whether or not the medical profession has a definition for insanity?
A. I don't know whether it has one except as doctors who go into courts in states where the statutes still embody the word "insanity". As I understand it "insanity" has been deleted, I thought it was, from our statute, and the words "mental illness" substituted.

Q. This jury is going to be asked to pass upon the sanity of Culombe. Can the medical profession help this

jury by defining "insanity"? Can you answer that question, Doctor? A. I'll try to help with an answer.

Q. What? You will try to help? A. I will try to help.

Q. That's all right. A. If required to definite "insanity", as I apparently am, I would say that insanity is a serious mental derangement rendering a person unable to order himself in his affairs with ordinary prudence, and rendering him a potential source of d. .ger to society, and in need of immediate restraint in a mental hospital where he could be contained against his will.

THE COURT: Mr. McDonough, does your examination contemplate some little time?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: The accused may be escorted from the courtroom. You may step down, Doctor.

(Accused removed from courtroom)

THE COURT: The alternates may be retired to their room, the jury may retire to their room.

(Jury and alternates excused from courtroom)

THE COURT: Short recess, Sheriff.

(Recess at 11:30 A.M.)

JUNE 26th, 1957. 11:45 A.M.

THE COURT: You may bring up the accused, Sheriff.

(Accused present)

THE COURT: You may call the alternates and the jury, Sheriff.

(Jury and alternates present)

THE COURT: You may proceed whenever you are ready, Mr. McDonough.

DOCTOR HAROLD A. BANCROFT, on the witness stand:

CROSS EXAMINATION BY MR. McDONOUGH:

(Resumed)

MR. McDONOUGH: May the last question and answer be read, Your Honor?

THE COURT: Yes, read it, Mr. Burke.

(Last question and answer read by reporter)

Q. Isn't it a fact, Doctor, that the modern school of psychiatric thought has held that any definition of insanity is obsolete and meaningless? A. It may be. I don't know it. It is not used medically.

Q. Well, the mentally defective person is a sick person, isn't that so? A. No, I would say not. It is a defective person.

Q. You wouldn't say that he is a healthy person?
A. Beg pardon?

Q. You wouldn't say that he is a healthy person, would you? A. Physically healthy. He has suffered no change in his mind and his capabilities since his life began. Therefore, there is no change, therefore, I say that he is not sick.

Q. Supposing he had a diseased brain. A. I don't understand the question.

Q. Is he sick?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

Q. Isn't it possible for a person to have a diseased brain? A. Oh, yes.

MR. BILL: Objection.

THE COURT: I will allow that question.

MR. BILL: This is not in line with the evidence that we have had.

THE COURT: I understand, it is going beyond the scope of your evidence.

Q. Doctor Lieberson's report, about which I inquired of you, indicates an abnormality or disturbance of Culombe's brain, doesn't it? A. Yes, I believe he testified that.

Q. And what could that abnormality or disturbance of the brain be? A. Well, if he couldn't explain it I can't.

Q. In other words, this is a sickness? A. No, I don't agree with you.

Q. It isn't a healthy brain, is it? A. An abnormality found on an electroencephologram doesn't necessarily in my opinion mean sickness.

Q. What could it mean? A. The abnormality?

Q. Yes. A. I think that Doctor Lieberson should have told you.

Q. Never mind what he should have told me. Can you tell us what an abnormality of the brain is? A. I can tell you various abnormalities of the brain.

Q. Tell us various abnormalities. A. A tumor the size of an orange inside one's cerebrum is an abnormality of the brain.

Q. Any other abnormalities? A. Meningitis would be called an abnormality of the brain.

Q. And what effect on the mental condition of a person have either one of these two, for example?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. Now, is a person - I'll withdraw that. The lowest form of mental status is what, Doctor? An idiot? A. Yes.

Q. And what is the next step above? A. Imbecile.

Q. And the next one above that? A. Moron.

Q. And then the moron up, are there further steps? A. Yes. They classify them as borderline mental defectives, dull normal, and average intelligence.

Q. Culombe has been classified as a moron by the psychologist, Mr. Ibelle, and he has been classified as an imbecile by the psychiatrist at Bridgewater when he was of the age of sixteen. Having that in mind. Doctor, when a person reaches one of those stages, moron, imbecile, or an idiot, at the age of sixteen, for example, do they usually progress, or remain with the same status? A. They progress in storing up experience, but their intellectual capacity does not increase

Q. So it is safe to say that if the psychiatrist at Bridgewater State Hospital, after a thirty-eight day observation period, classified Culombe as an imbecile, that his status would remain the same outside of experience?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. He has been classified as an imbecile by Bridgewater. Have you any reason to disagree with their findings, from your examination? A. I consider him a moron. That is my diagnosis. Therefore I have a reason to disagree.

Q. You won't disagree with Bridgewater that he is an imbecile, will you? A. Yes, I do.

Q. What is an imbecile? A. Well, an imbecile is a mental defective whose intelligence quotient ordinarily is between two and a half to roughly four years. I am not precise in that statement. It is the best that I can give you at this time.

MR. McDONOUGH: That's all Doctor.

THE COURT: Anything further, Mr. Bill?

REDIRECT EXAMINATION BY MR. BILL:

Q. I want to ask you about this question of classifying this thirty-three year old man in a mental capacity age group of nine to nine and a half years, as I understand it.

Does that mean to you, Doctor, that in all respects this man of thirty-three, if he is so classified -

MR. McDONOUGH: I don't get that question.

Q. - is similar?

THE COURT: Just a minute, Doctor. Read it, Mr. Burke.

(Last question read by reporter)

THE COURT: Go ahead and answer it, Doctor.

A. He is not similar.

Q. And why not? A. Well, he has increased in size. That is purely physical. He has had many years of

experience in the world, he has come in contact with many things as a man, or even as an adolescent, that he never came in contact with up to that time he was a nine and a half year old boy, he has learned many things, he has a vast amount of experience in the world due to his having lived to this age, and a boy who has lived to nine and a half years old does not have that experience.

THE COURT: Go ahead, Mr. Bill.

MR. BILL: I think that that is all.

RECROSS EXAMINATION BY MR. McDONOUGH:

Q. Well, Doctor, that experience that he has gained as a man, doesn't his history show you, falls in line with what has been found as a boy easily suggestible, easily led, dominated by others? A. Well, I would not describe Mr. Culombe as easily led, except by perhaps intimidation. He is a lusty man. He is not a fearful man -

Q. Not a what? A. Fearful as a mental defective he is more suggestible than a person of average intelligence or better. Does that answer your question?

Q. Doctor Ibelle - Mr. Ibelle, you had the benefit of his report, didn't you? A. I did.

Q. And did you use that in arriving at your conclusion? A. I had arrived at a conclusion before I saw his report.

Q. You arrived at a conclusion on March 2nd, didn't you? A. After I dictated my notes and had a chance to think them over.

Q. Doctor Ibelle in his report, which is an exhibit in this case, Exhibit 8, closed by saying - this is how he found him on March 30th, 1957, In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. Culombe is also possessed of that

character defect so frequently found in individuals of low intellectual caliber. He is enormously suggestive, thus lacking in the capacity for sufficient critical judgment, his manner of thinking, his pattern of living, and his way of behavior can all be easily influenced by others, persons closest to him. When the influences are benign, he gets along. When the opposite obtains he is in trouble." Won't you agree with that Doctor Bancroft? A. I would say, and I already have said, that as a mental defective he is suggestible. I don't think that he is a fearful man. I think that he can be intimidated, and to use his own expression "I don't have the Moxie that someone else has."

Q. In other words, if they call him chicken or tell him he hasn't got any guts, he goes along? A. No, I wouldn't say that.

Q. What do you mean by "Moxie"? A. That was his word. I think that it is an old slang expression for courage.

Q. "Guts" means courage too, doesn't it? A. I prefer "courage".

Q. And "chicken" means lack of courage?
A. I believe so.

Q. Well, what we both mean - isn't this true, Doctor - that for lack of courage, call it any name you want - he has easy suggestibility, and when the influences were bad he was in trouble, as Mr. Ibelle has said? A. Well, he lived three and a half years without being confronted with any trouble and he worked and supported his wife and three children and seemed to get along very well. He is suggestible and he can be intimidated.

Q. And do you know that after those last three and a half years a situation arose where he could be suggested to, that he now finds himself in this trouble after the three and a half years? A. Well, I think - I don't know what you

are driving at. I don't think he originated in his activities then, if that is what you mean.

Q. I am trying to fit it in more specifically with this: "When the influences are benign, he gets along - " That is, the three and a half years - "When the opposite obtains, he gets in trouble". Won't you agree with that?
A. I would say this - with benevolent influences, he gets along, as I said he did in the last three and a half years. With sufficiently intimidating malignant influences, he doesn't.

Q. That is what you mean when you answered Mr. Bill's question in reference to the many years of experience he had gained in the world - that is what you refer to - those influences? A. Well, I think that question has no relation to it because of the fact - I don't quite understand.

Q. What did you understand Mr. Bill's question to you to mean regarding his experience - what experience?
A. Well, the experience I refer to was that he was married, living with his wife, working, supporting his children and paying his bills.

Q. And those are good experiences? A. I think probably they are.

Q. But when the bad ones came along, as they have, that terminated, didn't you say, because of his easy suggestibility? A. Well, he was suggestible, and if the influence is sufficiently intimidating and malignant, he can be turned away from the path of rectitude.

Q. And that is where he finds himself today, isn't that so? A. It would appear so.

MR. McDONOUGH: That is all.

RE-DIRECT EXAMINATION BY MR. BILL:

Q And he knew those things were wrong, did he not?

A. In my opinion he knew the acts committed were wrong.

MR. BILL: That is all.

RE-CROSS EXAMINATION BY MR. McDONOUGH:

Q. Well, Doctor, on that last answer did he have the normal type of mind to judge right or wrong? Didn't he have a mind, as you say - the mind of a mental defective?

A. But he had enough intellect, even so, the average intellect to know the difference between right and wrong.

Q. Isn't it so that men are mental defective who are morons, imbeciles or idiots do not know the difference between right and wrong? A. I would say that an idiot certainly would not know.

Q. We will eliminate the idiot. A. I don't think an imbecile except the higher levels, perhaps, -

Q. Would you say an imbecile does not know the difference between right and wrong? A. No, I wouldn't say that. I would have to qualify by saying that a high class imbecile who has been given a great deal of training could be taught right from wrong. It might be elementary, but still it could be called as knowledge of right and wrong.

Q. This man here has been classified by hospital authorities, psychiatrists and others as an imbecile, and has not received, as the record shows a great deal of training. The home was good as far as it went. So he wouldn't be able to know the difference between right and wrong as you have defined it, would he?

MR. BILL: I object ,Your Honor.

MR. McDONOUGH: That is in the record.

MR. BILL: There is a difference in opinion here from your witnesses. They tagged him in different categories. That isn't a competent question.

MR. McDONOUGH: I am talking about the record which shows he is an imbecile.

MR. BILL: It doesn't show that specifically.

THE COURT: I am not much concerned with that, Mr. McDonough, but haven't we been over this field?

MR. McDONOUGH: I will tell you what I will do, Your Honor.

THE COURT: I can't make any wagers with you, but I will overrule the objection.

MR. McDONOUGH: I will withdraw it and put another.

Q. Isn't it true, Doctor, that when we say a person knows the difference between right and wrong we have got to judge that person by the mental equipment that they have, regardless of what it might be, isn't that so?

A. I don't think we have to judge them that way. Their mental equipment has something to do with their ability to know right from wrong.

Q. So that the mental equipment of Culombe has something to do with his ability to know the difference between right and wrong? A. That is right.

MR. McDONOUGH: That is all.

THE COURT: Anything further?

MR. BILL: No.

(Witness excused.)

CHESTER WATERMAN, a witness on behalf of the State on rebuttal, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Chester Waterman.

Q. Your address? A. Portland, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Doctor, what is your profession? A. I am a physician specializing in psychiatry.

THE COURT: I am telling you now, Doctor, the jury isn't hearing a word you say. Direct your attention to them and keep your voice up if you will.

Q. Where did you graduate from college, Doctor? A. McGill University, Montreal.

Q. What year was that? A. 1905.

Q. Where did you study medicine? A. At McGill.

Q. You graduated with what degree? A. Doctor of Medicine.

Q. You took your degree in medicine from McGill University? A. Yes, I did.

Q. When did you receive that degree? A. 1905.

Q. You are now a licensed physician in the State of Connecticut? A. Yes, sir.

Q. How long have you been licensed to practice medicine in Connecticut? A. Since April, 1923.

Q. You have specialized, have you not, in some branch of medicine? A. I have.

Q. What branch is that? A. Neuro psychiatry.

Q. And you have had additional training after your medical education in neuro psychiatry? A. I have.

Q. What training have you had? A. I spent about eighteen years in the New York State Hospital Service and about seventeen years in the Connecticut State Hospital Service. I received post graduate courses under Adolph Meyer and George Kirby and several others.

Q. Are you a member of societies - medical societies having to do with neuro psychiatric specialty? A. Yes, I am.

Q. What societies? A. A member at the present time - member of the New England Society of Psychiatrists, Past President, and also the Connecticut Society of Psychiatrists; for a great many years I was a member of the American Psychiatric Association.

Q. In the course of your professional work did you have occasion to examine Arthur Culombe? A. I did.

Q. When did you make that examination? A. On March 2 in the morning.

Q. Did you conduct that examination with Doctor Bancroft? A. I did.

Q. You were present at the examination - the examination was conducted jointly with Doctor Bancroft?
A. Yes.

Q. Would you describe to the Court and jury the attitude and manner of Arthur Culombe at this examination?
A. Mr. Culombe cooperated very well, and in fact, he appeared rather indifferent and frequently yawned. His stream of thought showed no disturbance, his replies were coherent and quite well constructed.

Q. You obtained a history from him? A. I did.

Q. You heard Doctor Bancroft testify? A. I did.

Q. I assume when he was answering the questions that Doctor Bancroft referred to that was the same history you obtained? A. It was and the questions were asked by both of us.

Q. But the answers that Doctor Bancroft has given about his past history were the answers he gave to both of you? A. Yes.

Q. Now, as a result of your examination, Doctor, did you reach a conclusion as to his mental condition?

A. I did.

Q. What was that conclusion? A. My conclusion was that he was perfectly capable of understanding the difference between right and wrong, and that he was capable of understanding the proceedings pending against him. I felt he was handicapped, but I found no psychotic manifestations.

Q. There was some discussion, was there not, as to the charge for which he is being tried here in this court?

A. Yes.

Q. And your examination had to do with the charge that is now being heard? A. Yes.

Q. Now, do you have any opinion as to whether or not at the time of committing the act that he is alleged to have committed in this matter he was laboring under any defective reason from disease of the mind so as not to know the nature and quality of the act he was doing, or if he did know it, that he didn't know he was doing what was wrong - do you have an opinion as to that?

THE COURT: Do you have an opinion - yes or no?

A. Yes.

Q. What is that opinion? A. My opinion was to the effect that he thoroughly appreciated the act. He knew it was wrong and it was subject to a penalty.

THE COURT: I am sure the jury is going to miss it. Will you read it again, Mr. MacGlashan?

(The reporter read the last answer.)

Q. Now, Doctor, do you have an opinion as to whether Culombe at the time of the commission of the alleged offense in this case had mind and capacity, reason and under-

standing enought to enable him to judge of the nature, charter and consequense of the act charged against him?

A. Yes.

Q. Also that the act was wrong and criminal?

A. Yes.

Q. Also that the commission of it would properly and justly expose him to penalty? A. Yes.

Q. What is that opinion? A. My oponion was that he had a thorough appreciation of the act, that he knew it was wrong and subject to penalties.

Q. Do you have any opinion, Doctor, as to whether or not his mind at the time of the commission of this act was so diseased or abnormal as to render him incapable of resisting an impulse to do anotherwise criminal act - do you have an opinion as to that? A. Yes, sir.

THE COURT: I wonder if he got that. Would you read that, Mr. MacGlashan?

(The reporter read the question.)

Q. Do you have an opinion as to that? A. Yes.

Q. What is that opinion? A. I don't think his mind was diseased or so defective as to render him incapable of understanding the nature of his act

Q. How about an opinion as to whether or not he would be incapable of resisting an impulse to do an otherwise criminal act - was his mind so diseased or abnormal to that extent as to resist an impulse? A. I don't think so.

MR. LaBELLE: That's all

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Is his mind diseased now - do you know that, Doctor? A. Is his mind diseased now? I don't think it ever has been diseased.

Q. Did you know he was confined to State Hospital for the Criminally Insane in Massachusetts? A. Yes.

Q. Did you know their findings? A. Yes, sir.

Q. Have you read their findings? A. I have read part of them.

Q. You didn't read them all? A. No. I read all reports I got.

Q. You just saw them this morning for the first time? A. No.

Q. When did you first see those reports? A. I don't remember.

Q. You don't remember? A. Weeks ago.

Q. Doctor, are you in active practice today? A. I am.

Q. And have been for how long? A. I have been doing private practice since 1940.

Q. You are active practicing today in psychiatry? A. Yes, sir.

Q. Have you testified recently in any criminal cases? A. Yes, sir, I have.

Q. What is the most recent case? A. Corona.

Q. Where was that and when? A. Here in Hartford a couple of months ago.

Q. At a trial or a hearing? A. It was a hearing.

Q. Not a trial like that, is that right? A. That is right.

Q. How much time did you spend with Culombe then? A. A little over two hours.

Q. With Doctor Waterman? A. With Doctor Bancroft.

Q. You are Doctor Waterman, I am sorry. Did you examine the report of Mr. Ibelle, the psychologist appointed by the Court? A. Yes, I did.

Q. Do you know the I.Q. he gave Culombe?
A. On one test it was sixty and on another it was sixty-four.

Q. Did you agree with that reading of his I.Q.?
A. Yes, I did.

Q. Did you give him an I.Q. test? A. No.

Q. Did you fix his mental age? A. Yes, I approximated it.

Q. What did you approximate it at? A. That would agree with Doctors Ibelle's findings.

Q. Well, what was Doctor Ibelle's that you agreed with? A. He had an I.Q. of sixty and sixty-four.

Q. What was the mental age? A. Something over nine years, I believe.

Q. About nine and a half years, isn't it? A. Yes.

Q. And what does the fact of a man thirty-three years of age having a mental age of nine and a half years indicate to you? A. That mental age of nine and a half is based in several different ways. Some authorities believe the native intellectual ability as reaching its maximum at the age of fourteen; others at the age of sixteen.

Q. What does it indicate to you - a man thirty-three having a mental age of nine and a half? A. I think he is definitely mental defective.

Q. Can you give us the reasons for finding he is a mental defective - why do you say that? A. I say that

based upon his past history, where he was never able to learn in school, I believe he is illiterate - can't read or write - and based on Doctor Ibelle's findings and examining him.

Q. Do you know that at the age of six he had been watched - had to be watched carefully all of the time because of the dangerous situations he would walk into?
A. Yes.

Q. What did that indicate to you - as a child?
A. Well, it indicates he is mentally defective.

Q. And what does it indicate if the record shows he did not know how to put his shoes on until ten years of age, not knowing the difference between the right and left foot - what would that indicate to you? A. That would indicate mental deficiency also.

Q. Would that indicate to you that he had an abnormal mind? A. Well, when you say mental defective, that means abnormal.

Q. I didn't say that.

THE COURT: He said when you say mental defective it means abnormal.

Q. Abnormal means mental defective? A. Yes.

Q. Do you think a mental defective person can judge right and wrong as a normal person does? A. It all depends on the degree of defect.

Q. Well, he is a moron, and somebody has said he is an imbecile. What would you say as to a person of that type?
A. I would regard him as a high moron.

Q. A high moron? A. Well, yes.

Q. What is a high moron? A. Well, there is a great deal of difference between them.

Q. What is a moron? A. It is a rather high grade mentally defective.

Q. To put it in plain English, is he slightly crazy?

THE COURT: Do you want that read?

THE WITNESS: Yes.

(The reporter read the question.)

A. No, I don't think there is any evidence of psychosis.

Q. I didn't say psychosis, Doctor. Does the word "crazy" mean anything to you psychiatrists? A. No, it is used by the laity as synonymous with psychosis.

Q. It is a lay word that means a mental defective, isn't that so? A. No, I don't think so.

Q. And probably doesn't mean anything to you as a doctor, is that right? A. It means they are suffering from psychosis.

Q. Something has gone wrong?

THE COURT: I don't think you heard the answer. He said it means they are suffering from psychosis.

Q. Psychosis. What indicates a psychosis?
A. There are a great many types of psychoses.

Q. Well, we haven't heard that before. Tell us what they are? A. Well, there are about one hundred.

Q. Now, we have been here for several weeks - can you name three? A. Broadly, there are the so-called functional psychoses where there is a mental illness with no physical defect; then there are the organic psychoses which are due to some defect, alteration or change in the central nervous system, and they are sub-divided.

Q. Are there a hundred different ways of indicating a psychosis? A. Approximately, yes.

Q. Are you sure that Culombe had none of that hundred? A. He showed no evidence of any psychotic manifestations.

Q. Did you apply a hundred different tests to him to determine whether or not he had a psychosis? A. I gave him the regular psychiatric mental examination.

Q. And what was that? A. Well, to begin with his attitude and manner. The next thing that we investigate is the stream of thought or mental activity. Then we investigate whether they are oriented or not, confused, know where they are, and so forth. Then we investigate both the remote and recent memory, and then we investigate the insight. Now, all that is the direct psychiatric examination and a part of the examination is the history obtained.

Q. You spent two hours with this man in your psychiatric examination, that's right isn't it, Doctor?
A. Yes.

Q. And after two hours in a cell block in the barracks you were able to state that everything else is eliminated and this man hasn't got a psychosis? A. Yes.

Q. All right, why do you say that he has no psychosis?
A. Because he had no symptoms.

Q. What are the symptoms?

MR. BILL: Objection.

THE COURT: I'll sustain the objection.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. I think that Doctor Bancroft said a loss of reality. Is that one? A. That is a symptom of a certain type of psychosis.

Q. That is a symptom of a psychosis? A. Of a certain type.

Q. Of a certain type? Did you test him for every one of the hundred types of psychosis?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: I will sustain .

MR. BILL: He asked him that once.

THE COURT: I sustain it on the ground that it is repetitious.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. Did you test him for any of the symptoms of psychosis? A. I think that I would have to divert, Your Honor, a little bit. We are talking at cross purposes.

THE COURT: You answer the question if you can, Doctor. If it isn't clear, you say so, and we will have counsel rephrase it. Is it clear?

THE WITNESS: It is not clear.

Q. All right, you cannot answer the question when I asked you did you test him for a psychosis? A. I did.

Q. You did test him? A. Yes.

Q. And what did you use to test? Merely the questions that you have told us that you asked him? A. The investigation into the different emotional fields, memory fields, orientation and so forth.

Q. Now, Doctor, a moron you say is a mental defective, is that right? A. Yes.

Q. What is an imbecile? A. An imbecile is a mental defective also.

Q. What is the difference that brings them from a moron down to an imbecile? A. An imbecile is very much more defective than a moron.

Q. Now, Doctor, wouldn't you give, as a psychiatrist of many years experience, great weight to a hospital and a trained staff that had this man under observation for thirty-eight days, wouldn't you give great weight to their diagnosis that he is an imbecile?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

MR. McDONOUGH: May I have an exception, Your Honor?

THE COURT: Surely.

Q. Do you know that he was in Bridgewater State Hospital for thirty-eight days when he was sixteen or seventeen years old? A. I do.

Q. And you know that they classified him as an imbecile, don't you? A. Yes.

Q. Do you disagree with their classification? A. I do.

Q. Why do you disagree with it? A. Because of what I found his condition to be when I examined him.

Q. You found out in two hours and reached the conclusion what took them thirty-eight days, and you disagree with it? A. Yes.

MR. BILL: Objection. That's argument.

MR. McDONOUGH: That's all.

THE COURT: I'll allow it to stand. Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing further, Your Honor.

THE COURT: You may step down, Doctor. Call your next witness.

MR. BILL: We are going to proceed now with the Taborsky matter.

THE COURT: All right. You heard that statement, Mr. Burke, did you?

MR. BURKE: Yes, Your Honor, I did.

DOCTOR HAROLD A. BANCROFT, having been previously sworn was recalled by the State, and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. Have you the file on Joseph Taborsky, Doctor Bancroft, with you? A. Yes, sir.

Q. Now, whether or not you have examined Joseph Taborsky in a psychiatric examination? A. I have.

Q. And whether or not you examined him recently? A. I examined him March 4th of this year.

Q. And whether or not some five or six years prior to that you had examined Joseph Taborsky? A. I examined him before on January 19th, 1951, and January 24th, 1951.

Q. Now, getting down to the more recent examination, what date was that? A. Joseph Taborsky was examined March 4th, 1957.

Q. And where? A. At the Hartford barracks of the Connecticut State Police.

Q. And were you alone, or with some other psychiatrist? A. I was with Doctor Chester Waterman.

Q. And you two were with the accused Taborsky, during this examination, you two alone? A. We were.

Q. Now, what was the first approach to Taborsky when you made your examination? A. Well, our first approach was that we informed him who we were and what our function was.

Q. And then did you proceed with your examination? A. We did.

Q. And what was your observation as to his manner? A. Well, he exhibited no emotion, made no objection

when questioned, remained calm, was civil, and with few exceptions was responsive to our questions.

Q. Did you go into his past history? A. We did.

Q. And what did you find? A. Well, he told us that he had been strong and healthy as a baby, that he had never had any serious illness, that he had had an operation when nine days old for "abscess in the head and on the arm", while still in the hospital after delivery, and that he believed his birth and the operation that he mentioned had occurred at the Hartford Hospital. He stated that he began school at the age of five or six, that he reached the 9th grade when thirteen, and stopped and went "to some kind of Trade School in the Junior Republic," and he explained that he went "Because I didn't like school", and he stated that he had been truant during school days.

He said that he had been at the Republic about one year and then had been set to the Connecticut School For Boys and he stated that he went there because he didn't want to stay at the Republic and kept running away. He stated he had been at the Connecticut School For Boys for about a year and then returned to the family home in Hartford.

We learned that after this he began work at different jobs, such as plumber's helper, truck driver and other small jobs which he did not specify, and that the jobs were not for long periods of time, and that he had joined the National Guard and that the National Guard was Federalized and that he thought it was federalized in 1941 and before the war. He stated that he was in the National Guard about three months and then discharged because he was under age. He stated that he was sixteen years old at that time.

Asked what he did next, he stated that he went "to Cheshire for breaking and entering places such as gas stations", that he thought that this was in 1942, that he

remained at the Connecticut State Reformatory for one and one-half years, that he was then sent "to Wethersfield," and when asked why, he stated that he had escaped from Cheshire and had been sentenced to Wethersfield because of it.

He said that he remained at the Connecticut State Prison about four years and that he had had a five year sentence. He stated after release he returned home and worked as a helper to truck drivers and on moving vans for about ten months, that he then went to the West Coast.

He stated that he was in the State of Washington and that he worked at different kinds of jobs, one of which was in a railroad warehouse, that he was in Washington about a year and that he was arrested for burglary and sentenced to "Walla Walla" where he remained close to a year and then was released, but we learned that he was returned to the State of Connecticut to finish the remainder of his sentence in Wethersfield. He said that he still owed time. He said that the authorities came for him and he had to serve the remainder of the original sentence of five years at Wethersfield. He thought that this was in 1949. He thought that he had served one year after his return from Washington at the Connecticut State Prison and was released.

Asked what he next did, he stated he engaged in the same kind of work he had done before, that he worked steadily for about one year "I think". Asked what happened next, he stated that he was arrested in 1951. Asked what that was for, he replied "Robbery and murder". Asked if he was sentenced at the trial, he said that he was. Asked what the sentence was he replied "Death". Asked if he had been sent to Wethersfield he replied "Yes".

Further questioning revealed that he was released after being at Wethersfield over four years. Asked how he was released he replied "Through a Court decision."

Asked to explain he stated "They ruled I should have had evidence of my brother's condition at my trial." Asked what this evidence was, he replied "We thought he was insane." Asked to explain further, he said "We thought we should have been able to get him examined or get evidence of his condition in the trial." Asked what the Court's decision was, he replied "They ordered a new trial, but my brother was in the insane asylum and I couldn't have one."

After that we learned that he was released from the Connecticut State Prison "A year ago last October," and he thought that this was about October 6th, 1955. Asked if this sentence of death on a charge of robbery and murder was the Woolfson episode he replied "Yes". Asked directly if he had been guilty of that he replied "Yes". Asked if the story that his brother Albert had told in Court had been generally true, he replied that it was mostly true. Asked if Albert had driven the car in the Woolfson affair he replied "Yes". Asked if he had been the one who had gone in the Woolfson Package Store -

MR. BURKE: I am going to object to the details, Your Honor please, of this other crime.

THE COURT: Do you claim them, Mr. Bill?

MR. BILL: No, I don't claim any more than he has told now. Of course, the other doctor went into all the crimes.

MR. BURKE: He didn't go into the details.

THE COURT: That's right. I will sustain the objection. Perhaps if you would ask another question, Mr. Bill.

Q. Now, after he was released from State's Prison did you inquire then as to what he did and his activities?
A. I did. We did.

Q. And what did you find out? A. Asked what he

had done after release in October 1955, he said that he had obtained a job with the City of Hartford, on a sanitation truck and that he worked two months, that he then obtained a job with a company that he had worked for before that, that it was the Hartford Despatch & Warehouse Company, as a helper on trucks and in the warehouse, and that he had continued at this job until "This past September". Asked what he did then, he said that he left and moved to Brooklyn, New York, in September of 1956, and obtained work on moving vans and that he had married later. He stated that he married in October of 1956. Asked if he had worked steadily after going to Brooklyn he replied that he did not have steady work because "I had no senority in New York."

Q. Now, did you question him about the recent arrest or the charge that he is now standing here charged with?

A. We did.

Q. And what was the result of that?

MR. BURKE: I am going to object to this, Your Honor, the result of the questioning. Apparently he is going to testify to some kind of an admission or details about this crime.

THE COURT: I will sustain the objection. I would sustain it if that was what was called for, and it clearly might call for that sort of an answer.

Q. Well, Doctor, did he discuss with you certain incidents that occurred just prior to this arrest?

THE COURT: "Yes" or "no", Doctor.

A. Yes.

Q. And did he describe the type of incidents that they were?

THE COURT: "Yes" or "no".

A. Yes.

Q. And were those incidents hold ups?

MR. BURKE: I am going to object to this.

A. Yes.

THE COURT: Wait a minute.

Q. Did he -

THE COURT: Wait a minute, Mr. Bill.

MR. BURKE: I will ask that the answer be stricken.

THE COURT: Do you claim it?

MR. BILL: I claim it on this ground, Your Honor, and you remember my questioning of Doctor Abrahamsen, that his claim being that Joseph Taborsky went out to kill, just to kill, and it became an issue as to whether on hold ups that he discussed himself and I discussed with him and questioned him, as to whether there were any incidents where there were hold ups and there was no killing, and that was very vital in that question, and this is rebuttal.

MR. BURKE: And he said that he didn't remember discussing anything about hold ups, Your Honor. I marked that page.

MR. BILL: The issue that he raised, Your Honor, was that this man Taborsky went out to kill just for the sake of killing.

THE COURT: And not to rob.

MR. BILL: And I am going to meet that issue.

MR. BURKE: I don't see how that meets the issue; to have this doctor talk about whether or not he went out on hold ups.

THE COURT: I don't want to discuss it now, but I am satisfied that this question is admissible. I will overrule the objection. I will allow the answer to stand.

MR. BURKE: May I have an exception?

THE COURT: Surely, go ahead, Mr. Bill.

Q. Doctor, in relating at this interview with you certain incidents, did he relate incidents of hold ups?

A. Yes.

Q. Did he tell you in relation of those hold ups whether or not in each instance whether or not a man was killed - a man or men were killed?

MR. BURKE: Objection, Your Honor.

THE COURT: Just a moment, Doctor. I'll hear you, Mr. Burke.

MR. BURKE: I think, Your Honor, he is going to get a matter which is prejudicial before the jury. He is bringing in past crimes, he is talking about hold ups. That has nothing to do with the particular issue here.

THE COURT: I think that that may be true, but as I recall Doctor Abrahamsen's testimony it was that in each instance it was his opinion that this accused went out to kill, and that he did not have any associated motive such as robbery or hold up, and upon being asked several times, he said that he might have asked the question, as I remember it, but that he didn't remember whether he did or not. Now, this evidence, as I take it, is being offered to show the purpose that the accused gave to the Doctor, in rebuttal of what Doctor Abrahamsen testified to or claimed that he didn't remember, so I will allow it.

MR. BURKE: May I have an exception?

THE COURT: Yes. Do you remember the question?

THE WITNESS: No, sir, I would like it read.

THE COURT: Would you read it, please, Mr. Burke?

(Last question read by reporter)

A. Yes.

Q. Did he name any incidents where he took part in a hold up where nobody was killed?

MR. BURKE: That is objected to, Your Honor. He has gone into the general field of hold ups. Now we are getting specific crimes.

MR. BILL: That is just the issue, Your Honor.

MR. BURKE: No it isn't, Your Honor.

MR. BILL: He raised the issue.

THE COURT: I will make the same ruling. I'll overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. Will you answer the question, Doctor?

A. Yes.

Q. Did he name the incidents?

THE COURT: "Yes" or "No" on that.

A. Yes.

Q. And can you name them?

MR. BURKE: Objection.

THE COURT: Mr. Burke, my ruling doesn't go that far.

MR. BURKE: I object to that.

THE COURT: I will sustain it.

Q. Did he tell you how many? A. Yes.

Q. Let's put it this way: Did he relate a number of them?

MR. BURKE: That is objected to as leading, "Did he relate a number of them".

THE COURT: Yes, I will sustain the objection on that ground.

Q. How many did he relate?

MR. BURKE: I object to it, if any he related.

THE COURT: He has already testified that he did. I will overrule the objection. You may answer. We want you to give it numerically, Doctor, not by name.

Q. This is where no killings were involved. Just hold ups. A. He mentioned five in which there was no mortality.

Q. Did he tell you about his personal habits and A. He did.

Q. And what did he state about that? A. Well, he said that he did not drink much, but when he did it was only when he was out with someone who drank. He denied that he ever became drunk. He denied ever using any kind of narcotic drugs or marijuana derivative or sedative drugs, so called goof balls.

Q. Did you question him about his health? A. We did.

Q. And his answer to that? A. He stated that he had been healthy except when a baby he had had the abscess he had mentioned before, and which I read before. He denied that ever had gonococcus infection or syphilis, he denied he ever experienced any loss or alteration of consciousness, or convulsions.

Q. Did you discuss religion with him? A. We did.

Q. And what was his answer to that? A. He stated that his mother attended Episcopal Church, that he himself

had grown up in the Episcopal Church, that he last attended church in November of last year in Brooklyn, New York and that he had been married in High Church, but that in Hartford he had always attended low Episcopal Church.

Q. Did you discuss his married life with him?
A. We did.

Q. And what did he state about that? A. He stated that he married Josephine Vecchione after an acquaintance of three months, that he had been attracted to her by her beauty and innocence, that she was about thirty-one, that she worked at an envelope company and that he had lived with her until he had been arrested. He said that he had told her of his previous record one month after he met her. Asked how he explained his absences when he came to Hartford, he said that he told her that he was working over when he came to Hartford. He stated that they had been happy together.

Q. Did you discuss with him his motivation for committing the crime that he is charged with? A. We did.

MR. BURKE: Objected to, Your Honor.

MR. BILL: Claim it.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. And what was his answer?

THE COURT: "We did".

Q. You did discuss it with him? A. We did.

Q. Did he answer - what did you question him about?
A. We asked him -

MR. BURKE: I am going to object to this, Your Honor.

Q. I will ask you again, did you question him about his motivation in connection with this crime? A. We did.

Q. That he is now charged with? And did he explain to you his motivation?

MR. BURKE: I am going to object to this line of questioning, Your Honor.

MR. BILL: I claim it, Your Honor.

MR. BURKE: I don't see the purpose.

MR. BILL: You have already ruled on it.

MR. BURKE: I don't see the purpose of going into the motivation of this particular crime. I don't know what the State is trying to prove.

THE COURT: You mean rather than other crimes in general?

MR. BURKE: Rather than a general statement of the witness -

MR. BILL: I will withdraw the question.

Q. Did he give you the motivation of the various crimes that he committed that I have asked you about? A. He did.

Q. And what was his motivation? A. Well, he said -

MR. BURKE: I am going to object to that. I think the question is, "What did he say his motivation was?"

THE COURT: I think that is probably correct. I'll sustain the objection on that ground.

Q. What did he say was his motivation? A. He needed money and he - he needed money.

Q. He needed money?

THE COURT: Perhaps this is a good point to stop, Mr. Bill. Will you escort the accused from the courtroom?

(Accused removed from courtroom)

THE COURT: I must give you the usual instruction. You will not talk to anyone about this case or allow anyone to talk to you about it. Should it be in the newspaper and you be looking at them during the noon hour, you should not read anything about this case. Should there be anything on radio or television you will ignore it. When you come back at two o'clock the jury will go to their room, the alternates to their room, if they will. You may now be excused.

(Jury and alternates excused from courtroom)

THE COURT: Recess until two o'clock, Sheriff.

(Recess at 1:00 P.M.)

AFTERNOON SESSION - JUNE 26, 1957

THE COURT: Doctor Bancroft, you can come back on the stand.

Bring in the accused.

(Accused present in the courtroom.)

THE COURT: May I have the jury and the alternates, please?

(Jury and alternates seated at 2:07 P.M.)

THE COURT: You may proceed, Mr. Bill when you are ready.

DOCTOR HAROLD A. BANCROFT, recalled.

MR. BILL: May I have the last question and answer?

THE COURT: Do you have the last question and answer, Mr. MacGlashan?

(The reporter read the question and answer.)

CONTINUED DIRECT EXAMINATION BY MR. BILL:

Q. Did you inquire of Taborsky as to the reason for his killings? A. We did.

Q. And did you receive an answer? A. We did.

Q. What was it? A. Well, "That I needed money, and I knew that if anyone could give a description to my prominent chin, that is the main reason I shot, because if anyone said a man with a big chin, they would know, because I am the only one with it."

Asked if he meant that any survivor would bring that description by people about his chin he replied, "Yes", and he added the police would know. "That used to be my nickname a long time."

Q. Did you determine his mental status, Doctor? A. We did.

Q. I am talking about you now. A. Yes, sir, I did.

Q. Would you tell the Court and jury what you found to be Joseph Taborsky's mental status? A. Well, I found no evidence of psychosis, of any mental disease or any mental defect. He was calm, civil during examination over two hours. He was cooperative and responsive to questions with the exception that he indicated he wasn't going to mention the name of his companion in the incidents he mentioned. He was precisely oriented for time, place and person. He exhibited no signs of confusion, and when asked if he was confused, he replied, "No." Asked if he ever considered himself confused he replied, "No".

His memory was adequate, and as far as could be determined, was good. He was alert, comprehended quickly, and his answers to questions were invariably responsive and definitely expressed. His stream of speech was or ordinary speed and remained the same during the examina-

tion. He said nothing irrational. He exhibited no evidence of any hallucinatory influences. He exhibited no evidence of delusional ideas, and when questioned to bring out possible delusions by asking if he thought he had enemies —

Q. I don't claim that, Doctor. Will you go on from there - the next paragraph beyond that - the next subject matter? A. His judgment. His judgments were deliberate and good at this time. He apparently had complete realization of his present situation and evidence accumulated against him for his recent incidents, and outwardly seemed to have insight into the penalty at law. He pointed out that he had made admission of the incidents because of the appeal made to him by his mother. His mood was one of calm with distinct control of his emotions. His thought reaction suggested that he was of average intelligence at least.

Q. Did you come to any conclusion as to whether there was any mental disease or mental defect he was suffering from? A. I did.

Q. What was that conclusion? A. I concluded he had no mental disease or mental defect.

Q. Now, Doctor, from your examination, have you an opinion as to whether Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and consequences of the act charged against him, that the act was wrong and criminal, and that the commission of it will justly and properly expose him to penalty - have you an opinion? A. I have.

Q. And in that opinion do you think he had the mind and capacity and reason to understand enough to judge of the nature, character and consequence of the act against him?

MR. BURKE: Objected to as leading. He should ask his opinion.

THE COURT: He says that it is leading, but I will overrule the objection. Answer it, Doctor, if you can.

Q. Did you get the question, Doctor? A. I would like to have it repeated.

(The reporter read the question.)

MR. BILL: I will withdraw it.

Q. In your opinion, do you think he had the mind and capacity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him? A. I believe he did have that.

Q. And that the act was wrong and criminal? A. I believe that he did know that.

Q. And that the commission of it would justly and properly expose him to penalty? A. I believe he knew that.

Q. Did you think in your opinion that his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act?
A. I did not.

MR. BILL: Your witness.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. Doctor, you have been testifying from some notes?
A. Yes, sir.

Q. May I have the notes, please? A. You may.

MR. BURKE: May I have a minute, please, Your Honor?

THE COURT: Surely, Mr. Burke.

Q. Now, Doctor, you have been examining, have you not, for the State and the prosecution for a long period

of time? A. Well, for several years I have examined.

Q. And would you say that a great amount of your practice is examining for the State and for the Court and prosecution or court trials? A. Well, if for the Superior Court for this County -- if that is what you mean - I would say that only a very small proportion of my work is derived from that.

Q. I mean all the courts, State Courts, City Courts and Town Courts, and Superior Courts. A. Lumping all courts together, a substantial proportion of my income is derived from such examinations.

Q. And for the most part you examine for the State, do you not? A. Yes.

Q. Now, on the day you examined Joseph Taborsky this was at the State Police Barracks? A. Correct.

Q. And were you afraid of him, Doctor? A. Somewhat.

Q. And you asked that he be handcuffed before you examined him, did you not? A. I don't think I asked that he be handcuffed. I asked an officer over there if we were going to be left alone in a room across from him at a table, and because I didn't like to be in a room alone with just Doctor Waterman and myself on one side and he on the other, because even the two of us wouldn't have been quite able to contend with him, I asked them to give us some protection.

Q. And he was handcuffed, was he not, when you examined him? A. I believe he was handcuffed to a chair or something.

Q. And were you afraid of some violent outburst, Doctor? A. Since I had examined him before and testified before I didn't know what he might do.

Q. And you thought then that he was in a condition, from your prior examination, that he might become violent? A. Well, I thought he might harbor some resentment against me.

Q. And you were afraid for what he might do, weren't you? A. I didn't get it.

Q. You were afraid of what he might do? A. I was afraid of the possibility of his clobbering one of us, if I may use that word.

Q. And did you feel he was of such a mental condition he might just do that? A. Well, yes, because any man in his position and condition might do that.

Q. Now, the fact that he was in this condition, Doctor, did that have any effect on the tests which you conducted and the results of them - your findings? A. In my opinion, no.

Q. Did you at one time examine his brother, Albert? A. I did.

Q. And for this Court? A. That is right.

Q. And in examining Joseph did you go into his background - his family history?

MR. BILL: I object to that.

MR. BURKE: Claim it.

THE COURT: I think there is a misunderstanding. I wasn't certain when you asked that question whether you referred to Joseph or his brother. Will you reframe it? I will sustain the objection.

Q. I will reframe it. When you did examine Joseph you examined into his background? A. May I ask when? I examined him in 1951 and 1957.

Q. I will reframe it. When you examined him in

1957? A. Let me have my notes and I will tell you.

Q. What is your best recollection? A. When did I examine him in 1957?

Q. Yes. A. I believe it was March 4.

Q. Yes, and at that time you went into his background - his family history? A. I would like my notes back before I answer your question. By background you mean family history?

Q. Did you inquire of him about his father? A. I did.

Q. And did you ascertain that his father was an inmate at Norwich? A. Well, he didn't tell me so. In response to questions he said his father Joseph was retired, about sixty-five years old, had plenty of operations, couldn't work, that he was a heavy drinker. Asked if his father was sound mentally he replied he was all right mentally.

Q. And is that as far as you went in ascertaining whether he was or not? A. That is correct. I considered that was adequate - an adequate answer from him about his father.

Q. You didn't attempt to contact the family to find out if there was any history of mental disease in the family? A. Well, I know that his father had been in a State Hospital.

Q. You knew that? A. Yes.

Q. And what was the reasqn for his father being sent there? A. Well, I believe the diagnosis was psychosis with amyosthenic bilateral sclerosis.

Q. Did you take that into consideration in the examination of Joseph? A. All the data we obtained and all the data we knew or I had in my mind was taken under consideration in my conclusions about Joseph Taborsky.

Q. Did you put that in your report, Doctor? A. Put what in the report?

Q. This business about his father being in the hospital? A. No, because at this examination Joseph Taborsky didn't make any reference to it.

Q. Well, you did find it out, or you knew? A. I had know it from a previous examination.

Q. But you didn't think it important enough to put in this report? A. I did not, no, sir.

Q. It does have a bearing, though, doesn't it, Doctor? A. In this case, no.

Q. Isn't it so that if there is a history of mental disease or illness in the family it is an important factor in the examination of the person? A. Well, Joseph Taborsky had no mental disease so how is it a factor?

THE COURT: You can't ask questions.

THE WITNESS: I am sorry, sir. Joseph Taborsky had no mental disease in my opinion.

Q. Is that Joseph, the father or the son? A. The one in the courtroom, and therefore, what his father had, in my opinion, was of no importance.

Q. Wasn't it a factor in determining whether or not Joseph here did have a mental disease and the ascertainment of it? A. Not as far as my opinion about him was concerned.

Q. And the fact that his father had a psychosis with other somatic diseases - that meant nothing to you in the examination of this man? A. That is correct and not with the examination of his brother when I examined him.

Q. You examined his brother too? A. I did.

Q. And what was your opinion as to his sanity?

A. I haven't my record here.

Q. You can recall it, Doctor? A. It was my opinion he was sane when he came into court.

Q. How long after that was he committed to the insane asylum? A. I don't know.

MR. BILL: I object to this line of questioning. We are getting into collateral matters.

THE COURT: I will overrule the objection and I will allow the answer to stand.

Q. You have no recollection, Doctor? A. No definite recollection. I think he was in the Connecticut State Prison maybe three to six months, but I am not sure. I don't know when he was sent to Norwich.

Q. Did you keep interested in that case? A. No.

Q. You didn't know that the Supreme Court had found him mentally diseased at the time he was in this court? A. No, sir, I didn't know it had.

MR. BILL: I object to that because that isn't what the Supreme Court found.

THE COURT: I understand and I will sustain the objection and the answer may go out. Proceed.

Q. Doctor, does a mental disease run in the family? A. Sometimes.

Q. And in this particular family there was a father and one son who suffered from a mental disease, wasn't there, to your knowledge? A. Correct.

Q. Do you feel that that particular fact would have any bearing on your examination? A. Well, it was taken into consideration, but the man had no mental disease when we examined him and therefore, how would his

brother's and father's mental condition affect him at the time of the examination?

MR. BURKE: May I have the last answer stricken?

THE COURT: Yes, it is in question form and the last part will go out and the jury will disregard it.

Q. But you didn't put anything about that in your report? A. Not in this report of this year.

Q. He also told you he suffered from a brain abcess at birth, didn't he? A. I don't think he described it that way, Mr. Burke.

Q. What did he describe it as? A. He said when he was nine years old he had an operation for an abcess in the head and on the arm. Those are his quotes.

Q. Nine years, Doctor? A. Nine days old, I mean.

Q. Did he tell you where that operation took place? A. He told us at the place where he was born and that he believed his birth had been at the Hartford Hospital.

Q. Did you check the Hartford Hospital records? A. I did not.

Q. Didn't you think it important to find out whether a brain abcess existed? A. I did not.

Q. You don't think a brain abcess would have anything to do with a mental desease? A. If he had a brain abcess at that time he would be dead at that time.

MR. BURKE: May that answer go out?

THE COURT: Yes, it may go out. I wish you would answer the question and if you don't understand it let us know and we will see what we can do.

(The reporter read the question.)

A. Not in this condition, no.

Q. Isn't it so, Doctor, that the result of any kind of damage to the brain, whether it occurs at birth or later, might well have an effect on the mentality of a person.

A. It is a remote possibility.

Q. And did you attempt to find out here that existed in your examination? A. I examined the man and found he had no mental disease.

MR. BURKE: May I ask that that be stricken.

THE COURT: Yes. It may go out. Read the question, Mr. MacGlashan.

(The reporter read the question.)

THE COURT: Answer that, would you?

A. No.

Q. Did you, Doctor, talk to his family about his early childhood? A. No.

Q. Did you not think it important to know what type of child he was you were ascertaining his mentality, or whether or not he had a mental disease? A. I did think it important.

Q. But you didn't bother to do it, Doctor? A. That's right, except from him.

Q. Now, Doctor, you have been practicing psychiatry for some time haven't you? A. Many years.

Q. And that is a young science, isn't it, as we know it?

A. Well, it is a very inexact science.

Q. And the human mind itself is a very delicate and complicated machine, isn't it? A. Quite.

Q. And it is made up of different parts or elements, Doctor? A. Yes.

Q. Like the memory? A. Yes.

Q. The intellect? A. Yes.

Q. And the conscience? A. Yes.

Q. Now, if any one of those parts is damaged or doesn't operate properly would that person be considered to have a mental disease or mental illness? A. Depending up degree, he might or he might not.

Q. Let's take that part which I think you fellows called the super ego. The conscience, I call it. Suppose a man was found not to have a conscience or a super ego, would not that be considered a mental disease? A. You are now getting into psychoanalytical psychiatry. If you want to pursue it, all right. I think if you pursue it -

THE COURT: Doctor, all you are supposed to do is answer the question he asked, if you can. When you get through he will move to strike it out and I will have to strike it out. Do you remember the question?

THE WITNESS: No, sir.

THE COURT: Will you read it please, Mr. Burke?

(Last question read by reporter).

A. My answer is "no".

Q. Wouldn't it be true, Doctor, that a portion of his mind would be crippled or not working if he had no conscience? A. If a man had no conscience he might not be mentally diseased, but he might be a criminal.

Q. Isn't it also true that he might be mentally diseased, or mentally disabled, without a conscience?

A. Well, if he were mentally diseased he might have no conscience.

Q. Now, in determining whether or not there is the existence of what we call a conscience, how do you in your tests arrive at whether or not a person has such a thing?

Do I make myself clear? I'll start again Doctor. How do you determine whether or not a person does have a conscience, that is working or not working? A. Well, by finding out in general what their attitudes are in the ethical spheres, and about their behavior during life.

Q. And do you also examine and question into their relations with other people? A. That is in relation with what, may I ask? The question I have lost.

THE COURT: Will you read the question, Mr. Burke please?

(Last question read by reporter)

A. We do, and if possible, to find out about behavior.

Q. And did you in this case? A. No, I depended upon my knowledge supplied by Joseph Taborsky.

Q. Had you finished?

THE COURT: Yes, he had finished. Go ahead, Mr. Burke.

Q. Now, you had the advantage of Doctor Ibelle's report, did you not? A. Yes.

Q. And your findings as you made them in your report here were based on your examination as of April 4th, 1957, correct? A. I don't think that it was April 4th.

Q. I mean March 4th? A. March 4th. They were based on my observations of March 4th, 1957.

Q. Yes. So that your conclusions as of March 4th, 1957 were the same as your conclusions today after having had the advantage of Mr. Ibelle's report? A. That is correct.

Q. Now, you said in your examination of March 4th, you did not go into the phase of his relationship with

other people? A. Except through what he, himself, told me.

Q. And you did not at that time either go into or find out from his family as to his early life? A. That is correct.

Q. Don't you think, Doctor, that the manifestations of a child show or are some indication as to the mental fitness of that person as he grows up? A. If I got an accurate supply of information of this person during his development from infancy on, it might be meaningful, yes.

Q. But you didn't get or you didn't check into that, did you, Doctor? A. I did not.

Q. Now, in Doctor Ibelle's report he stated that Mr. Taborsky displays both a distorted sense of value and a distorted knowledge of what makes others behave just as they do. Did you inquire, or in your inquiry did you discover that to be true? A. I learned enough from him to find that he had a - you might call it warped viewpoint of ethics.

Q. Now, is that a factor in determining the mental illness or mental incapability of a person? His ideas, Doctor? A. Ideas that are expressed that are pathological are, but I noted no ideas that were pathological.

Q You didn't note any? A. I noted none.

Q. You noted none? A. I noted no ideas that I considered pathological.

Q. After you read Mr. Ibelle's report did that in any way influence your opinion? A. No.

Q. Not a bit? Now, Doctor Ibelle also reported that he found - I'll read you this. Paragraph 1, I guess, on page 2, of State's Exhibit OO. "In part the examinations administered to this person were given in an effort to rule out

intellectual deficit due to some sort of organic brain condition. The results are equivocal and any definitive statement must come from neurological examination." Did you find any intellectual deficit to exist when you examined?
A. I did not.

Q. Did it in any way affect your opinion, Doctor, after you read this report of Mr. Ibelle? A. You mean the last statement that you read?

Q. Yes, that statement. A. No, it did not affect my opinion.

Q. It didn't affect your opinion. And he states: "The weight of evidence here is heavily for a functional and against an organic explanation of any noted deficit." Did you in your examination discover or go into that? A. I don't understand what your question is.

Q. Did you go into the intellectual deficit which Mr. Ibelle found? A. I didn't find any intellectual deficits.

Q. And after you received his report you didn't at all - It didn't affect your opinion at all? A. No.

Q. Your opinion remained the same as it was on March 4th, is that right? A. That is right.

Q. Now, Doctor, what tests did you give to Joseph Taborsky here which led you to the conclusion that he knew the consequences of his act? A. Give me back my record, please. Well, he was asked if he felt justified in committing what he committed. Now I am substituting "What he committed" for what he actually had been asked about. And he replied "No", meaning that he was not justified. Asked what the term for shooting and killing somebody was, he replied "Murder". Asked if he knew what the penalty for murder was, he replied "It could be life imprisonment or death in the electric chair in Connecticut."

Q. Did he specify which of the two he preferred?
A. No, we didn't ask him that.

Q. May I have it back? A. Sure.

Q. Now, you read Mr. Ibelle's report, didn't you? A. I did.

Q. And you read where he said "In none of these stories" - after he gives this test - "are the consequences of the act spelled out, and indeed, through the tap time perspective in terms of the future he is absent." Doesn't that indicate to you that he doesn't have a knowledge of the consequence of his act? A. No.

Q. Doesn't it indicate to you that Mr. Ibelle found that? A. I don't know what Mr. Ibelle found or thought, as you read it, but it doesn't indicate to me that he did not know the consequences. This was during the process of testing, I assume. He was asked certain questions depending upon ethics, and his answers to those questions probably were those of a person who had few scruples and a lack of ethics so far as honesty was concerned.

Q. Did that show a lack of appreciation, then, of what was right and what was wrong? A. No. To me it just shows that the man is inclined to criminal act.

Q. And it would not show any manifestation of his inability to determine right from wrong? A. Not in my opinion.

Q. Doctor, did you examine to find out whether or not Joseph suffered from a psychosis of any kind? A. You mean at the time that we examined him did we inquire to find out if he suffered from a psychosis? A. Yes, the examination was conducted to see if he had a psychosis or if he didn't have a psychosis.

Q. And what was your finding? A. My finding were that he had no psychosis.

Q. And how many different types of psychosis are there? A. How many types.

Q. Yes. A. There are many.

Q. And do they take the form of functional as well as organic? A. Well, practically all of the psychoses are functional illnesses.

Q. And did you give tests for all of them? A. The tests that I gave were to determine whether or not the man had a psychosis or whether he did not.

Q. Well, you tell me that there are many types of psychoses. Is the same test used for all of them?

A. Pretty much so, because a psychiatric examination is standardized.

Q. When you tell me that there is a difference between a functional phychosis and an organic one, would not there be a different type of test used? A. Not so far as finding out what kind of a psychosis it was.

Q. What does psychosis mean, Doctor? A. Mental illness, briefly.

Q. And if the mental illness is functional what does the mean? A. That there is no organic or structural change that is responsible for that illness.

Q. And you would ascertain that from questions and answers? A. In the first place, we prove whether or not there is a phychosis or mental illness.

Q. In this particular case what tests did you give that proved to you that there was no psychosis? A. I performed a psychiatric examination of him.

Q. I know that. I am asking you what tests? Just asked him questions and got answers? A. That quite fits it, I think.

Q. And on these answers that he gave you, you came to the conclusion that there was no psychosis? A. That's right.

Q. And from these answers which he gave you, you determined that there was no organic defect? A. No, I didn't say anything about determining no organic defect. I said I determined that there was no psychosis.

Q. Isn't an organic defect one of the psychoses?
A. No.

Q. It is not? Now, I believe Doctor Waterman testified that there were about a hundred different types of psychoses and they could be divided functional or organic defects. Do you agree with that statement, Doctor? A. Not entirely.

Q. What part do you disagree with? A. Well, I gathered from the way you express it that Doctor Waterman had testified - I didn't hear him - that psychoses were pretty much evenly divided between functional disorders and organic disorders. Perhaps I misunderstood you or that you misunderstood Doctor Waterman. I think that the organic condition that caused psychoses or mental disease are relatively few, while those that are based on functional disorder are predominant.

Q. Well, don't you give a different type of test to determine an organic defect, which is as I understand, is one phase of psychosis, than you do for a functional type of mental illness?

MR. BILL: I object to that question because of the characterization of something that was not in there.

MR. BURKE: I claim it.

THE COURT: Unless the witness finds difficulty with it, he may answer, and I will overrule the objection.

THE WITNESS: It is difficult to answer the question because an organic defect is not a psychosis, and I think you used it as such here.

Q. Yes, I did. Would you say, then, an organic of the central nervous system was a psychosis? A. Well it is not a psychosis, but might cause a psychosis.

Q. And in a functional type of psychosis, there is no physical evidence of it, is there? A. There is no demonstrable tissue change noted.

Q. Now, would that be the type of mental illness such as epileptic equivalents? A. I would like the question - epileptic equivalents, I think you said.

Q. That is what I said. A. A man suffering from epilepsy due to an old trauma will have a so-called psychic equivalent - he might have epilepsy due to a brain injury and have a psychic equivalent as a manifestation of his epilepsy, and therefore chargeable to the intracranial injury or brain injury.

Q. Isn't it also true, Doctor, a man can have epileptic equivalent - I think you fellows call it - and no manifestation of epilepsy? A. I would say that at some time definite manifestation of epilepsy would appear, and that a person does not go along with equivalents with never any manifestation of epilepsy.

Q. But at any rate, as I gather from you now, you gave no tests to determine whether or not there was a psychosis and found none? A. I gave the customary psychiatric examination to determine whether or not the patient has a mental illness or psychosis.

Q. And this lasted about two hours? A. Yes.

Q. And it was with a patient handcuffed to a chair? A. That's right.

Q. You wouldn't say that is the best condition to take such a test, would you, Doctor? A. Mr. Taborsky showed no evidence of —

MR. BURKE: May that answer be stricken?

THE COURT: Yes, it is not responsive.

(The Reporter read the question)

A. No, those were not the best of conditions for Mr. Taborsky.

Q. Now, in your examination to establish your findings you did, did you investigate into his insight? A. Yes.

Q. You did - and what did you find from that?

A. He realized he had got himself involved in trouble; he knew the legal charge for the trouble he had got into, and he knew the possible consequences if he were found guilty.

Q. And you established that from two or three questions you asked him here? A. Plus the fact that he evidenced no sign of mental disease.

Q. Well, that was all part of the same test, wasn't it Doctor? A. No, the questions about whether he knew of the legal term for an illegal act and the consequences were not the usual parts of a psychiatric examination.

Q. Well, when you were making this one test for this psychosis business, that was one of the questions you were asked to determine, wasn't it? A. If I may have my record back. Now I would like the question.

(The Reporter read the question)

A. Can you elaborate - asked by whom?

Q. I will withdraw it and start over again. You said you investigated into his insight? A. I think I said he had insight into his situation.

Q. Now, that was part of the test you gave him to establish whether or not a psychosis existed, that is correct, isn't it? A. Well, it indirectly was an indication of whether or not he had a psychosis, but that was as

to something he has, because we wanted to find out if he knew the charge and the possible consequences.

Q. All right. Did you investigate into the memory field? A. Yes.

Q. Did you investigate into the emotional field?
A. We observed his emotions.

Q. Now, you read Mr. Ibelle's report about his findings in the emotional fields, did you not? A. I did.

Q. Do you recall reading that he was superficial in emotions, guarded and cautious and not revealing himself completely? Do you recall that part? A. I do.

Q. Did that have any effect on your findings?
A. No, there wasn't any noticeable contradictions with what we found ourselves.

Q. Did you find that he didn't think about other people as the average, usual person does? A. As the average, useful person does?

Q. Usual person - those are Mr. Ibelle's words.

Q. We do find — we found that he had certain ideas which people who have not been in trouble do not have.

MR. BURKE: May I have that answer?

THE COURT: Yes, read it, Mr. MacGlashan.

(The Reporter read the answer)

Q. Now, do you recall Mr. Ibelle saying his findings were that Joseph had no indication of eventual punishment, no indication of remorse or quilt? The usual person we give this kind of test to always bring in some implement of his eventual punishment or feelings of guilt? Do you agree with the statement of Mr. Ibelle's? A. In part.

Q. Well, did you find he had no feelings of guilt?

A. No, I would not quite agree with that. He felt feelings of guilt on account of his mother.

Q. Did he have any feelings of guilt on account of himself? A. I will have to refer to my notes. Yes, I did obtain something from him.

Q. What do you find there? A. We asked him if he felt badly about killing people, and he said — Is that going to cause trouble?

Q. I would like to have you read it to the Court and jury. Read that paragraph. A. At the Court's direction I read it. Asked if he felt badly about killing people, he said: "At the time I shot Woolfson I felt bad - it was reflex - but in the death house, there is no feeling of life — you get hard from the guards wanting to go to the execution."

Q. Is that the end of it? A. There is more in it.

Q. All right. A. Not pertaining to what you wanted, I think.

Q. What pertains to other people in the death house with him.

Q. Now, do you think - or what do you feel is the effect of staying fifty-two months in the death house? Do you feel there was any effect on him mentally? A. I don't think so.

Q. None at all? A. I don't think so.

Q. Do you feel, Doctor, that a man in the death house awaiting his execution, time after time, day after day, it will not have any effect on his mind? A. Well, in the death house he probably went through anxiety. If you are released I would expect that to disappear, so that at the time he was discharged I don't think there was any effect of the death house left, except maybe resentment in being locked up and put to the strain that he was.

Q. But wouldn't that have an effect on his mentality, Doctor? A. I don't think it would have. He is a composed man.

Q. From what you have just read there, Doctor, I gather there he said to you that after the Woolfson affair he felt some guilt, but when you examined him, he apparently felt none. A. Well, I don't think I said he felt none.

Q. Your report doesn't say he felt any, does it?
A. In that particular paragraph it doesn't.

Q. May I see the notes again, Doctor? Did you in your examination ascertain whether or not Joseph had any feeling of the desire to die? A. Not that I recall, but you have my notes.

Q. You can't recall? A. I don't recall he had any desire to die.

Q. He didn't express that to you? A. Not that I recall.

Q. And if he had, Doctor, would that have any effect on your conclusion?

MR. BILL: Objection.

THE COURT: Yes, I will sustain it.

MR. BURKE: I claim it, Your Honor, Dr. Liberson - Dr. Abrahamsen testified and it is in the evidence, and I would like to find out what this doctor says about it.

THE COURT: He says he didn't, so it is conjectural, and I will sustain the objection.

Q. Doctor, as an expert in this field under which you are testifying now, would the expression in a person of a desire to die mean anything to you as to their mental capability? A. It might or it might not. I can conceive of situations where a person might feel they should die and say so.

Q. That isn't the average - I mean the usual average feeling of a person, is it? A. Well, I think that probably you have — people that are confronted with possible drastic punishment at court might quite likely feel they wanted to die to escape as quickly as possible, and I think people who have brought about accidently, or maybe deliberately, injury to somebody, they are troubled by it, and for a time they think they would like to die.

Q. That isn't a normal reaction or normal thought, is it? A. Well, I don't know, I have never canvassed normal experience to find out.

Q. Well, is it not so, Doctor, that one of the strongest desires in a living thing is to live? A. That is so, except there are certain conditions under which probably the best things are for a person to die.

Q. And if a person has a desire to die, when the normal thing is a desire to live - doesn't that indicate there is something wrong with the person? A. Well, if a person has every reason to live, as an average person in the world, and he wants to die, I would say there is something wrong with the person.

Q. Doctor, yesterday, Dr. Abrahamsen testified. Have you ever heard of Dr. David Abrahamsen, by the way?
A. Yes.

Q. And you have read his book, "Crime and the Human Mind"? A. I have heard of it. He has written several books, I think.

Q. In his examination he found that Joseph had a lack of reality, and inability to distinguish between right and wrong, and that he had developed a system of delusions, which brings him to the conclusion that the defendant suffers from schizophrenic reaction, paranoid type. You didn't find that to be so? A. No, I would disagree with Dr. Abrahamsen.

Q. And you based your conclusions on a two hour visit with Joseph, didn't you? A. Plus two previous examinations of his several years before.

Q. Well, the examinations you made several years before, one you said on January 19, 1951 and one on January 24, 1951 - you made no examinations in the intervening years, did you? A. No.

Q. Until March 4? A. That's correct.

Q. And in the intervening years he had this unusual experience of staying in the death house for fifty-two months? A. Yes.

Q. Facing execution? A. Yes.

Q. And yet on March 4, 1957, I believe you testified, your conclusions were the same as they were in 1951? A. I didn't testify on March 4. I testified today, based on an examination on March 4.

Q. Yes, but on March 4 your conclusions were exactly the same as your testimony today? A. That's correct.

Q. So that whatever happened between March 4 and now wouldn't change your opinion at all? A. That is right.

Q. So that we can say, then, your conclusions as of March 4, 1957 were exactly the same as they were in 1951, or substantially the same?

MR. BILL: I object to that, Your Honor.

MR. BURKE: Claimed.

MR. BILL: He hasn't testified about 1951 at all.

MR. BURKE: He did testify to it, Your Honor. He said he examined him in March 1957 and five or six years ago he examined him on January 19 or whatever, 1951.

THE COURT: There is no evidence I recall, Mr. Burke, and of course, the recollection of evidence will be for the jury - as to any conclusions reached on the examinations of 1951, so I will sustain the objection.

Q. I will ask you, then, Doctor, your conclusions in January, 1951 were the same as they were, as a matter of fact, on March 4, 1957? A. Well, so far as his having any mental disease or psychosis is concerned, my conclusion is the same.

Q. So that the intervening years and intervening experience of waiting fifty-two months in the death house made no appreciable effect on his mental condition, in your opinion? A. None that made him psychotic or mentally diseased.

Q. Do you feel that his running away during school days had any bearing on his mental condition? A. I think he was a wild kid in his school days and that accounts for his running away.

Q. And you don't think that that in any way indicates any mental trouble? A. No, I don't.

Q. None at all? And the fact that he was constantly running away from something at the Junior Republic, even at Cheshire, that means nothing at all to you, either? A. I think it means that he resented restriction of his liberty. But it is nothing at all or it is no indication of any mental trouble? A. It is no indication of a psychosis at this time.

Q. Did you in your examination inquire into the strength of his judgment? A. We base an opinion on his judgment on his answers to ordinary questions asked.

Q. And you read Dr. Ibelle's report, did you not, in which he stated that his judgment was poor, his analytic and interpretive abilities are weak? You read that? A. I

read something akin to that. I don't have his report before me.

Q. Well, I have it, Doctor. A. Or whether you are reading it verbatim or not, I don't know. I do have it. Your question?

THE COURT: Read it, Mr. Burke.

Q. (Repeated by reporter): "And you read Dr. Ibelle's report, did you not, in which he stated that his judgment was poor, his analytic and interpretive abilities are weak? You read that?" A. Yes, I read that.

Q. Did that have any effect at all on your opinion or your conclusion? A. It did not change my opinion about Joseph Taborsky in any way.

Q. And you also read in the report that guilt feelings were relatively absent? You read that in Mr. Ibelle's report? A. I did.

Q. That had no effect [redacted] your opinion at all? A. Not so far as determining any psychosis or mental disease.

Q. The net result is that the entire conclusion you reach was based on this two hour examination on March 4th? A. That is correct.

Q. And anything else you learned from the psychologist's report or anything else after that had no effect whatsoever on your conclusions or judgment? A. No, I wouldn't say that. I say it doesn't contradict what I think.

Q. You didn't change your opinion any, did you? A. That's right; I didn't.

Q. So that it had no effect, then, on what you had decided on March 4th? A. Well, it in no way changed my opinion about Mr. Taborsky.

MR. BURKE: That's all.

THE COURT: Mr. Bill?

MR. BILL: Thank you, Doctor.

* * * * *

DR. CHESTER WATERMAN, having been previously sworn, was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. I think, Doctor, you testified as to your qualifications and medical background, and so forth, in the Culombe case, so we won't repeat that now because the jury has it. But whether or not, Doctor, on March 4th, 1957, you examined Joseph Taborsky? A. I did.

Q. And were you in the company of somebody at the time you made your examination? A. I was.

Q. Is that the same examination that Dr. Bancroft has just referred to on the witness stand? A. Yes.

Q. Have you been present in the Courtroom all during Dr. Bancroft's testimony here in connection with Joseph Taborsky? A. I have.

Q. And whether or not in the examination you noted any outward evidences of emotional disturbance? A. Did I notice any outward evidence of emotional disturbance?

Q. Yes.

THE COURT: That was the question.

A. In whom?

Q. Taborsky. A. No.

Q. What sort of an appearance did he make as you examined him there? A. He made a very good appearance. He was calm,

Q. Yes? A. His stream of thought was good. His replies to questions were relevant.

THE COURT: Doctor, the jury won't be able to hear you, at all. Keep your voice up, will you? You don't need to shout, but keep it up. Go ahead.

Q. Now, whether or not you went into Taborsky's childhood history at that time? A. I did.

Q. And is your evidence pretty much the same, substantially, as Dr. Bancroft's, in connection with his childhood history? A. It is. We examined him together.

Q. What's that? A. We examined him together.

Q. Yes. And is your report pretty much the same, substantially, as he gave here on the witness stand?
A. Substantially the same.

Q. All right. Now, did you go into his adult history, his employment and the type of employment and what he did during the years after childhood? A. I did.

Q. And were those — Are those the same in your report as given by Dr. Bancroft here? A. They are.

Q. Now, did there come a time in your examination that Taborsky discussed with you a number of holdups that he had committed? A. Yes.

MR. BURKE: Objection, Your Honor.

THE COURT: The same objection as before?

MR. BURKE: Yes, Your Honor.

THE COURT: Same ruling. I'll overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely.

Q. Did he, in the discussion of these holdups, say what his motivation was for the holdups?

MR. BURKE: Objection.

THE COURT: Same objection, Mr. Burke?

MR. BURKE: Yes, Your Honor.

THE COURT: I'll overrule it.

MR. BURKE: I don't see how it is relevant on this issue at all. Exception.

THE COURT: Exception.

A. He did.

Q. And what did he say? A. That he needed money.

Q. In the course of your examination did he give you any reason for the killings that took place in these incidents?
A. He did.

Q. And what did he give to you as being the reason?
A. He told me that he was known as "The Chin" —

Q. You can look at your notes if you need to.
A. I don't need it. I remember it. —and that he knew of no man in Hartford that had that particular type of chin, and that he believed that these witnesses should be killed because they would identify him.

Q. Now, did he describe to you any holdup incidents that he took part in where there were no killings?

MR. BURKE: Objection.

THE COURT: I'll overrule the objection.

MR. BURKE: It's repetitious, besides. We just had this.

THE COURT: Not with this witness.

MR. BILL: We did not. These are questions —

THE COURT: I overruled the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. Did you understand the question, Doctor?
A. Yes.

THE COURT: Will you answer it?
A. Yes.

Q. And how many? Did he name them? I am not asking you for the names. Did he tell you the number of such holdups where there were no killings? A. I think there were five all told.

Q. And you are now referring to your notes?
A. Yes, sir.

Q. Now, Doctor, at the conclusion of your examination did you arrive at an opinion as to whether or not Joseph Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and the consequences of the act charged against him? A. I did.

Q. And what was your conclusion? A. I felt that he was.

Q. You felt that he did have those attributes?
A. I felt he did have those qualifications.

Q. Were you of the opinion that he knew the act was wrong and criminal? A. I believe that he did know the act was wrong and criminal.

Q. And in your opinion did he know that the commission of it would justly and properly expose him to penalty? A. I think so.

Q. Were you of the opinion that his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act? A. I was not.

Q. Did you find Joseph Taborsky to be psychotic?
A. I did not.

Q. Did he have any evidence of confusion during the examination? A. He showed no evidence of confusion.

Q. Was he oriented in all fields? A. In all fields.

Q. Did he have any delusions? A. There was no evidence of delusions.

Q. Did he have any false perceptions? A. No false perceptions.

Q. How was his memory as to both recent and remote past? A. His memory is very good.

Q. And how was his stream of thought? A. Stream of thought was delivered with normal rapidity. No evidence of flight.

MR. BILL: Your witness.

THE COURT: I think we'll stop here, Mr. Burke. You may escort the accused from the Courtroom.

(Accused removed from Courtroom.)

THE COURT: The alternates may retire to their room and the jury to theirs.

(Jury and alternates excused.)

THE COURT: Short recess, Sheriff.

(Recess at 3:30 P.M.)

AFTER RECESS - 3:44 P.M.

THE COURT: Bring in the accused.

(Accused in the courtroom.)

THE COURT: May I have the alternates and the jury and Doctor Waterman, would you take the stand, please?

(Jury and alternates seated at 3:45 P.M.)

DOCTOR CHESTER WATERMAN, recalled.

THE COURT: Mr. Burke, you may proceed when you are ready.

CROSS EXAMINATION BY MR. BURKE:

Q. Doctor Waterman, you testified before the recess that in your opinion you found that Joseph Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and consequences of the act charged against him. A. I did.

Q. And you found that to be true on March 4, 1957? A. I did.

Q. You know nothing of his mental condition as of December 15, 1956, do you? A. No.

Q. So, as far as you knew on that date he might not have had that capacity, isn't that true? A. Possibly, yes.

Q. And that also goes for the belief that the act was wrong and criminal and that the commission of it will justly and properly expose him to penalty. You knew nothing of his belief as of December 15th, did you?

THE COURT: I am afraid you don't mean that. Would you read it, Mr. MacGlashan?

(The reporter read the question.)

Q. You know nothing of his belief - you don't know anything about his mental capacity on December 15th, 1956? A. No, I do not.

Q. And the best you know is how you found him on March 4th? A. That is correct.

Q. You stated here, I think, today that you found no evidence of confusion? A. I found no evidence of confusion.

Q. What tests did you make to determine that? A. Orientation.

Q. You asked him where he was? What day it was, simple things like that? A. And his environment.

Q. What environment do you mean? A. Where we were.

Q. Where you were? A. Yes.

Q. That is what you mean by he has no confusion if he knows where he is? A. That is one way of knowing it. I also - he showed no confusion - no mental confusion throughout the examination.

Q. What do you mean by confusion? A. Bewilderment.

Q. You mean he knew what he was talking about? A. Yes.

Q. And he knew where he was? A. He did.

Q. And those are the simple tests you arrived at to show he has no confusion? A. That, and combined with the fact that he answered the questions on the part of the mental examination.

Q. You say he was calm and composed. Were you afraid of him, Doctor? A. No.

Q. Was he handcuffed to the chair? A. He was.

Q. Did you join in Doctor Bancroft's request that he be handcuffed? A. No, I think that originated from the State Police.

Q. You heard Doctor Bancroft say he was afraid he would be "clobbered" I think was his words. You were not afraid you would be clobbered? A. I wasn't afraid of him, no.

Q. You say he had no delusions? A. I found no evidence of delusions.

Q. What test did you give him? A. A mental examination.

Q. What tests - a mental examination means nothing to me. What tests? A. There are no specific tests in a psychiatric examination.

Q. And what did you do in this connection - on the conclusion you reached - ask him some questions and get his answers and you arrived at an opinion? A. That is right.

Q. No tests at all? A. What do you mean by tests?

Q. I am asking you if you gave him any tests? A. The whole psychiatric examination might be characterized as a test.

Q. You have no independent tests to determine whether or not there were any delusions? A. No, not that I know of.

Q. You also said he had no false perceptions - what does that mean? A. That means that he has no hallucinations or illusions.

Q. Did you have the benefit of Mr. Ibelle's report? A. I did.

Q. And did you see what he said about these perceptions? A. Did I see what he said?

Q. Do you remember his report? A. I do.

Q. Did you read it? A. I did.

Q. And from March 4, 1957 until today your opinion didn't change, did it? A. None whatever.

Q. So whatever he said in his report made no effect on you, did it? A. Yes, it did.

Q. What effect? A. It showed that he wasn't mentally defective.

Q. Well, didn't you see in there that he didn't have any human percepts - I believe that is what Mr. Ibelle

calls it - did you see that in the report? A. Did I see what?

THE COURT: Read the question, Mr. MacGlashan.

(The reporter read the question.)

A. Well, false perceptions from a psychiatric standpoint mean hallucinations of any of the senses or illusions, and we find no evidence of any of those.

Q. Did you see in Mr. Ibelle's report respecting his findings? A. Yes.

Q. Did you see in his report that there was some intellectual deficit - did you find any such? A. I found none.

Q. What test did you give to establish there wasn't any? A. The usual psychiatric examination - memory.

Q. You keep repeating that. What tests did you give? Mr. Ibelle gave tests. A. I didn't give any tests. I gave you what was my opinion as the result of the entire psychiatric examination.

Q. You told Mr. McDonough there are a great many types of psychoses? A. That is true.

Q. You said one hundred, I think? A. That is just approximately.

Q. Didn't you say that? A. I said that.

Q. And you said some are functional and some are organic? A. That is right.

Q. Now what kind are functional? A. Functional psychoses comprise the vast majority of psychoses. The mind is not working well but there is no physical alteration or damage to the central nervous system.

Q. What kind - what is the name of them? A. Well, dementia paralytica.

Q. How about schizophrenic reaction, paranoid type? A. As far as schizophrenia is concerned, there has never been any physical basis found for such.

Q. There is not a functional basis for it? A. We regard it as a purely functional condition.

Q. That is one of the functionals, is it not, of which there are about a hundred different kinds? A. Right.

Q. Did you make any tests to determine whether he suffered from that? A. Yes, our general psychiatric examination.

Q. That is one of the tests you gave sitting over there when he was handcuffed - the one test? A. There were no definite tests like mathematical tests.

Q. What you do is to give us the sum of the tests, is that it? A. From our experience we size up the whole reaction.

Q. And from your experience in the sizing up of the reaction you are looking for results? A. Yes.

Q. And you knew you were working for the State in this case, did you not? A. Yes, but I am not prejudiced.

Q. Did you find that he shows a weak, analytical and integrative ability? A. As part of what?

Q. Mr. Ibelle says "Again, as on the intelligence test he shows weak analytical and integrative abilities." Did you find that to be so? A. No.

Q. Did you find he had a distorted conception of what people are really like? A. No.

Q. Mr. Ibelle found it, though, didn't he? A. I believe so.

Q. Did you read the report? A. Yes.

Q. And after you read the report, did that have any effect on your conclusions? A. None whatever.

Q. You didn't want that effect, did you? A. Of course I did.

Q. You said that he had a good knowledge, I believe, of the consequences of his act, is that so? A. That is true.

Q. Did you read where Doctor Ibelle says: "There is no indication here there will be any eventual punishment at all, no indication at all of remorse or guilt?" You didn't find that? A. I didn't find any remorse or guilt.

Q. He said, "The usual person given this kind of test and given this kind of story always brings in some implement of eventual punishment or feelings of guilt or feelings that he shouldn't have done that or fright. Here we have nothing except the simple statement that this is what happened." Did you find that? A. Yes.

Q. You found there were no feelings of guilt?

A. He didn't manifest any feelings of guilt except that he felt guilty in causing worry to his mother.

Q. But in this language of manifestation of feelings of guilt, he didn't have any conception, did he, of the eventual punishment? A. I think he did.

Q. Well, then, you don't agree with Mr. Ibelle's report in that respect? A. Yes, I agree with his report when he says there is no manifestation of guilt.

Q. He also states there is no indication here that there will be any eventual punishment at all. Did you read that part of the report? A. Yes. I don't agree with that.

Q. You don't agree with that. And your examination, you said, took about two hours? A. Yes.

Q. You and Doctor Bancroft? A. Yes.

Q. And during the two hours you would be asking and writing out questions? A. Yes.

Q. How long did it take to write out the question? A. I didn't time it.

Q. Did it take a few minutes? A. Yes.

Q. How many questions did you ask in two hours? A. We didn't keep track of the time. I went through the usual routine of a thorough psychiatric examination.

Q. Do you want us to believe that you can give a thorough psychiatric examination in two hours? A. I do, depending on the occasion.

Q. And in this particular case you could do it? A. I think so.

Q. Isn't it so it takes a lot longer time than that to give a good reasonable psychiatrical report? A. I don't think so. There are some that take very much less time.

Q. Let me ask you this. Did you delve into his background? A. Only what he told us.

Q. You didn't go to his family to find out anything? A. I didn't.

Q. Isn't that important in suggesting a person's mental health? A. It sometimes is.

Q. You didn't think it important in this case? A. I did not.

Q. You knew his father had been in an insane asylum? A. I didn't at the time, no.

Q. You didn't at the time? A. No.

Q. When did you find it out? A. Just recently.

Q. So that wasn't a part of your report? A. That wasn't a part of my report.

Q. When you learned that, didn't that have some bearing on your report? A. No.

Q. You knew his brother was in the insane asylum, didn't you? A. I knew that.

Q. Did you know it at the time you were taking the examination? A. Yes.

Q. Did that have any bearing? A Yes, he told us his brother was in the Norwich State Hospital.

Q. Did you check the hospital to find out what he was there for? A. No.

Q. You didn't think that was important? A. No, I didn't think it was very important.

Q. All you thought was important were these questions and answers you got in two hours? A. Yes.

Q. That is all that was important? A. I thought the important thing was a thorough psychiatric examination.

Q. And you say you can give one of those in two hours? A. Yes.

Q. And you then can come in here and give us your opinion, an opinion on which a man's life might be at stake, on a two hour examination? A. Yes, and there are some patients that do not take that much time.

Q. You didn't check into his background to find out what kind of a childhood he had, did you? A. Only what he told me.

Q. You didn't go to the schools, did you? A. No, but I got reports from the schools.

Q. You didn't go to his family? A. No.

Q. You didn't check on that operation for the abcess on his head? A. Yes, he told me about that.

Q. Did that have any effect on your report?
A. None whatever.

Q. You didn't even check on the hospital reports or the dates? A. Only what he told us.

Q. You didn't know whether there was any residuary of brain damage? A. There were no symptoms to show any.

Q. You can't see the symptoms outside, can you, Doctor? A. Well, you can get symptoms.

Q. Dosen't it take an encephalogram test to determine whether or not there is brain damage? A. Yes.

Q. If I gave you the same answers he did, your report would be that I was sane, wouldn't it? A. Would you repeat that question?

THE COURT: Yes, read it, Mr. MacGlashan.

(The Reporter read the question)

A. Yes.

Q. I could make up those answers, couldn't I?
A. Yes, possibly.

Q. And if I had brain damage you wouldn't know anything about it unless you took an encephalogram? A. Yes, I would.

Q. How could you tell? A. By symptoms.

Q. What symptoms would isclose to you that I had brain damage? A. What type of brain damage?

THE COURT: He can't answer questions. Just answer the question and if you can't answer say so and we will try to help you. If you don't understand, make known your difficulty, but don't ask him questions.

(The Reporter read the question)

A. Usually if there is an organic condition there is confusion, deterioration, and they are not able to answer as relevantly as this man did.

Q. You don't, do you, honestly underoath know, whether he had brain damage without an encephaelogram, do you? A. Couldn't positively say, no.

MR. BURKE: That is all.

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APPEARANCES OF WITNESSES
BEFORE HON. ABRAHAM S. BORDON, JUDGE

MARTIN H. HORWITZ, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Martin H. Horwitz.

Q. Where do you live? A. New Britain.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Horwitz, what is your business? A. General insurance, realtor and world travel.

Q. World traveler? Mr. Horwitz, you are a former Deputy Sheriff for Hartford County? A. Yes, sir.

Q. You are here under subpoena? A. Yes, sir.

Q. Mr. Horwitz, in the course of your business, general insurance and real estate, do you get around and associate with the general public? A. A little.

Q. And you belong to fraternal organizations?
A. A few.

Q. And religious and other groups and social groups?
A. Correct.

Q. In the course of your work, getting around among the general public and your fraternal duties and social affairs have you found out whether or not in New Britain there is an opinion formed as to the guilt or innocence of the accused or to the matter of their trial? Answer "Yes" or "No" to that. A. Will you repeat that?

MR. McDONOUGH: May it be read?

THE COURT: Read it.

(Last question read by Reporter)

A. No.

Q. You have not? Have you heard it discussed by any groups? A. Not by groups.

Q. Have you heard it discussed? A. On the street here and there.

Q. By the general public? A. Well, people that you meet, if you call that the general public.

Q. About how many have you heard it discussed? A. I wouldn't state, Mr. McDonough.

Q. Are you able to tell this Court whether or not you found an opinion among the people? A. If I -

Q. Have discovered an opinion, not asking you what the opinion is? A. No.

Q. You have not?

MR. McDONOUGH: That's all.

ROBERT F. PROBST, a witness called by the Defendants, having been sworn by Mr Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Robert F. Probst.

Q. Where do you live? A. West Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Probst, what is your business? A. I work for the Connecticut Light and Power Company.

Q. And do you get out among the general public in West Hartford? That is your home? A. Yes, it is, sir.

Q. Do you get out around the general public so that you have heard discussion about public events and public affairs? A. Not too much.

Q. Are you in a position so that you can state the opinion - not your opinion - of the general public that you have heard? A. No, I am afraid I can't.

Q. You were subpoenaed in this case? A. Yes, I was.

Q. And you weren't consulted at all by any attorneys? A. No, sir.

Q. You were just drawn at random, as far as you know? A. Yes, sir.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

THE WITNESS: May I be excused.

THE COURT: I'm afraid you may. You won't serve much purpose here.

ROBERT P. LEWIS, a witness called by the Defendants, having been sworn my Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Robert P. Lewis.

Q. Where do you live? A. Unionville, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Could you tell me your business? A. I am a salesman.

Q. You have some official position in the town? A. I am the Director of Domestic Relations in the Town of Farmington.

Q. And do you hold any political office? A. No, I don't, sir.

Q. Now, Mr. Lewis, do you have occasion to be around Unionville quite extensively? A. I do, sir.

Q. And do you talk to a great number of people in Unionville? A. Yes, sir.

Q. Now, Mr. Lewis, regarding this Taborsky-Culombe murder can you tell me whether or not there is an opinion existing in Unionville regarding these men? A. Yes, sir.

Q. Just answer "Yes" or "No". A. Yes, sir.

Q. What is that opinion? A. The opinion is -

MR. BILL: Objection.

MR. BURKE: Claim it.

MR. BILL: He has given no background of how many he talked to or what he discussed or on what basis he forms it.

BY THE COURT:

Q. What people do you call on? A. Your Honor, I make about a hundred to a hundred and twenty calls a day in Greater Hartford.

Q. For what purpose? A. I am a collector salesman, installment collections. I also sell to these accounts.

Q. For what kind of business? A. It's the Capitol Home Equipment Company of Hartford.

Q. How many people have you discussed this matter with? A. Well, I would say out of among a hundred to a hundred and twenty calls a day I broached the subject maybe to twenty-five or thirty.

THE COURT: Read the question.

(Repeated by Reporter) "What is that opinion?"

THE COURT: The question is excluded. I do not believe that Mr. Lewis is qualified to give any opinion which will affect the Court's judgment.

MR. BURKE: May I ask this question, Your Honor:

Q. Did you, Mr. Lewis, in discussing this matter, you say twenty-five or thirty times a day with citizens about Hartford County, did you find existing any prejudicial feeling toward these two men? A. I did, sir.

MR. BILL: Objection.

THE COURT: The question is excluded.

MR. BURKE: May we take an objection to both the questions, Your Honor?

THE COURT: You have an exception, sir.

MR. McDONOUGH: I have no questions.

MR. BILL: No questions.

MR. BURKE: Your Honor, may Mr. Lewis be excused?

THE COURT: He may.

JAMES R. RABBETT, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. James R. Rabbett.

Q. Where do you live? A. Windsor Locks.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Rabbett, what is your business or occupation?
A. Town Clerk and Treasurer, Windsor Locks.

Q. How long have you lived in Windsor Locks?
A. Born there.

Q. In your duties in connection with your office of Town Clerk do you come in contact with many of the public? A. I do.

Q. To what extent? A. Well, I have them come in for licenses and to have deeds filed, mostly with title searchers from out of town.

Q. Do you have discussions with them? A. Mostly about business. We don't have time to talk about other subjects too much.

THE COURT: Are these title searchers lawyers?

A. Yes, most of them are lawyers.

Q. Are you active in politics, Mr. Rabbett?
A. Not too active right now.

Q. But you have been? A. I have been, yes.

THE COURT: You were a Democrat? A. Yes. Still am.

Q. Have you heard, Mr. Rabbett, - and answer "Yes" or "No" to this - discussion by the town's people in Windsor Locks of the Taborsky - Culombe affair? A. I have.

Q. And to what extent have you heard these conversations? A. To a very limited extent.

Q. And where has it been? A. I can safely say that the most of the discussions have happened in my own home.

Q. But not in connection with your work?
A. Not in connection with my work. We don't have time to talk about other subjects in the office, no.

Q. They are a very busy office? A. It is a very busy office.

Q. No politics, even? A. No, there's no politics in the office. No. Strictly business.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

DIRECT EXAMINATION BY MR. BURKE:

Q. I will just ask you, Mr. Rabbett, if you know whether or not there is extant an opinion in Windsor Locks regarding these two men?

MR. BILL: Objection, Your Honor.

A. I wouldn't be able to answer that question.

THE COURT: The answer is that he wouldn't be able to answer that question. Do you withdraw the objection?

MR. BILL: Yes.

MR. BURKE: I didn't hear anything with all the confusion.

THE COURT: Will you read the answer?

(Last answer read by Reporter)

Q. Would you know, Mr. Rabbett, whether or not there exists in Windsor Locks an air of prejudice against these two men? A. If it did exist I wouldn't know. I have no way of knowing.

MR. BURKE: That's all.

MR. McDONOUGH: You don't get around much, do you? A. Not too much.

MR. McDONOUGH: That's all.

MR. BILL: That's all.

THE COURT: You may be excused.

GEORGE T. MANION, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. George T. Manion.

Q. Where do you live? A. Avon, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Manion, will you tell us your official capacity in the Town of Avon? A. Postmaster.

Q. And as such you are in constant cantact with the public of Avon? A. With their mail, at least.

Q. They come to get their mail, don't they?
A. It's getting so we don't contact the public much.

Q. But there are a great number of Avon citizens come to your Post Office to get their mail? A. Yes, sir.

Q. And in the course of a day how many people would you be talking to? A. Oh, it would vary from two to a hundred.

Q. Now, in addition to these duties as postmaster you are involved in civic and public affairs, are you not?
A. I wouldn't say involved. I participate in civic affairs of the town.

Q. It's a choice of words. A. I see that's what happened here today.

Q. Do you have an opportunity to know from your talking to these people every day whether or not there exists in Avon an opinion as to whether or not Taborsky and Culombe could receive a fair trial?

MR. BILL: Objection, Your Honor.

MR. BURKE: He can answer "Yes" or "No", Your Honor.

THE COURT: Let him answer "Yes" or "No".

MR. BILL: In the first place he hasn't told us how many people he has talked to about this case. I am objecting, Your Honor.

THE COURT: We'll find out. Do you have an opinion - read the question.

(The last question read by Reporter)

A. I couldn't answer that.

Q. How many people have you talked to in Avon regarding the Taborsky - Culombe affair, the murder affair here? A. Well, in conversations with many, probably twenty would talk about it.

Q. Twenty a day? A. Some days we might. Some days we might not talk to anybody about it.

Q. What I want to know, Mr. Manion, is whether there exists in Avon among the general public an opinion on this case. I am not asking you what the opinion is, but whether there is an opinion existing? A. I think in Avon they have opinion on anything that is before the public, and this is quite a bit before the public and they must have an opinion on it.

Q. They do, then, have an opinion on this partlicular case?

MR. BILL: No, he said they must have.

Q. I am asking you, Mr. Manion, if you know whether or not they do have one? A. Some have told me their views, but whether that would be their opinion or not -

Q. By "views" you mean what they are thinking about as regards this case? A. Well, if I don't get in

trouble, I might see some of them walk in to buy a stamp and they might gab about what they read in the paper that was happening that day. It could be the weather, could be the murder case.

Q. How many people commented on what they read in the paper regarding this murder case? A. There's been several.

Q. How many would you say a day? A. Oh, I have no idea.

Q. Would it be quite a number, in Avon? A. Two to ten.

Q. Two to ten a day? A. That's an estimate.

Q. And are you able to tell us whether or not from your talking to these people there exists in Avon an opinion or view, if you will, regarding a trial of these two men?

THE COURT: "Yes" or "no".

A. Yes.

Q. What is it?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: The question is excluded. This man has not qualified. He couldn't reflect public opinion in the Town of Avon by discussing the thing one way or another with two to ten men.

MR. BURKE: May we have an exception, Your Honor?

THE COURT: You have an exception.

MR. BURKE: That's all I have.

MR. BILL: No questions.

THE COURT: That's all. Go back to the Post Office.

RAYMOND BEGLEY, SR., having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Raymond Begley, Sr.

Q. Where do you live? A. New Britain.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Begley, what is your business A. Liquor Store Proprietor.

Q. How long have you run a liquor store?
A. Fifteen years.

Q. Package Store? A. Package store.

Q. Do you come in contact with the public in the course of running that business? A. Yes, I do.

Q. And to what extent? A. You mean how many people?

Q. Approximately, yes. A. Probably a hundred a day.

Q. And do you have discussions with these people?
A. Off and on, yes.

Q. And fraternal organizations or political groups, do you have discussions with people other than the ones that come into your Package Store? A. Not necessarily.

Q. How much time do you spend in your Package Store every day? A. I am there from eight to twelve and from six to eight.

Q. It is the general public you deal with? A. Yes.

THE COURT: Is that eight to twelve in the morning and six to eight in the evening? A. Yes.

Q. Now, Mr. Begley, with this approximately a hundred people a day that come into your Package Store have

you heard conservations or discussions or engaged in them relating to Taborsky and Culombe on trial in this case for murder? A. Not recently, but when it first happened I heard a lot of conversation.

Q. By "not recently" what do you mean? A. I mean lately nobody has said much about it.

Q. When did it stop? When did it begin and when did it run through? A. When it first started there was quite a few conversations. Everybody that came into the Package Store talked about it.

Q. You mean right after the arrest or when the killings started? A. During the killings and after the arrest

Q. Quite a few people that came into your store talked about it? A. Yes.

Q. What proportion? A. At least fifty per cent of them.

Q. And did they reflect to you an opinion of that, say, fifty people a day, fifty per cent of a hundred, that they had regarding these killings? A. Well, yes.

Q. What was that opinion? A. They were quite sore.

Q. What do you mean? A. Well, they were darn mad. Of course, we are in the City of New Britain, we are in the Package Store business and we were concerned about it and people were quite afraid to go into the store at different times.

Q. Did they reflect an opinion as to the guilt or innocence of the accused and whether or not they were entitled to a trial?

MR. BILL: Objected to.

A. No.

Q. They did not? A. No.

MR. BILL: Objection withdrawn.

Q. But they were quite sore? A. Yes, very much so.

Q. Would you say they were inflamed? A. Well, to a certain extent.

Q. What do you mean, to a certain extent? They were or they were not? A. They were just boiling over, that's all.

Q. They were boiling over?

MR. McDONOUGH: That's all.

THE COURT: Mr. Begley, from eight to twelve and from six to eight, that's six hours, you think you talked to a hundred people?

A. At least a hundred people, Your Honor.

Q. They were boiling over about the whole situation, no matter who did the killings, it was the tragedies that had come to the package store keepers and gasoline station keepers and so forth, wasn't it? Wasn't that it? A. It was a matter of conversation when they would come into the store.

Q. And they discussed with you what they read in the papers, of course, is that so? A. Well, yes, I imagine so.

Q. You just imagine that? A. That's right. They would come in and that's the first thing they would start talking about.

Q. And you didn't question them on whether or not they could come into Court and listen to evidence and give a man a fair trial, did you? A. No, I did not.

Q. They didn't come out and say, "These fellows ought not to be given a trial, they ought to be given the

chair immediately". All those people didn't say that, did they? A. No, not all of them.

Q. There wasn't any more excitement over this, was there, than the time that Sergeant Grabeck got killed in New Britain? Were you there then? A. All my life.

Q. That was pretty exciting, wasn't it? A. Yes.

Q. And there was a lot of talk about it then, wasn't there? A. At that time.

Q. And those people talked to you about that case, didn't they, about the same as they did this case?
A. Yes, they did.

MR. BILL: That's all.

RE-DIRECT EXAMINATION BY MR. McDONOUGH:

Q. And you know that the man charged with that crime was convicted of first degree murder, don't you?
A. Yes, I do.

Q. Here in Hartford County? A. Yes.

Q. In answer to Mr. Bill you said something about whether or not they reflected an opinion as to whether or not they should get the electric chair or get a trial. Have they expressed an opinion as to whether or not they should get a trial or go to the chair without a trial?

MR. BILL: He answered that, Your Honor. This is cross-examination and this is his own witness.

MR. McDONOUGH: This is re-direct, Your Honor.

THE COURT: You are now asking for specific conversation which, of course, is hearsay.

MR. McDONOUGH: In order to avoid argument, Your Honor, I'll reframe it.

Q. Mr. Bill questioned you about whether or not opinions were expressed as to their being given a trial. Were opinions expressed as to that? A. Not necessarily. They were just kind of bitter, the people that came in.

Q. Without going into specific conversations, there was a general discussion of these men? A. Yes.

Q. And as you told me on direct examination, they were sore, weren't they? A. Very much so.

Q. And who were they sore at? A. At the person that was supposed to have committed the crime.

Q. Taborsky and Culombe?

MR. BILL: Wait a minute. That's a leading question. He said whoever committed the crime.

Q. Did they mention who the boys were that were supposed to have committed the crime? A. No, they probably said while this murder was going on They didn't have to mention any names.

Q. The New Britain gasoline station murder?

THE COURT: Now, are you suggesting the answer to him, as your own witness?

MR. McDONOUGH: No.

THE COURT: Are you?

MR. McDONOUGH: No, Your Honor.

Q. Have they discussed the New Britain gasoline station murders? A. Naturally.

Q. That is the present case? A. That's right.

Q. And did they - what did they say about it? What was their opinion? A. It was a terrible thing. They said "You'd better get out of the store because people coming in here don't want to come into your store".

Q. Was that their general attitude? Were they frightened? A. They were frightened, of course, the same as most everybody.

MR. McDONOUGH: That's all.

MR. BILL: That's all.

ANTHONY PALUMBO, a witness, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Anthony Palumbo.

Q. Where do you live? A. Newington.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Palumbo, what business are you in?
A. Garage business.

Q. Do you have occasion in that business to meet many citizens coming into your garage? A. Yes, sir.

Q. How many a day do you talk to? A. I talk to a lot of people. I am there from eight in the morning until about twelve o'clock at night.

Q. And has one of the topics of conversation with your customers been the murders that have taken place?
A. Yes, sir.

Q. And have you talked with them regarding the newspaper, radio and television publicity given to those killings? A. I did.

Q. Now, could you tell me from your talking to these people, that you say are a great number coming into your gas station, whether or not there existed among them an opinion as to whether or not these two fellows should be given a trial or not? A. Yes, they -

MR. BILL: Objection, Your Honor.

THE COURT: Answer "Yes" or "No".

A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor. I don't know how we are going to be able to show the prejudice that exists unless we are able to show it through a cross section of citizens, and the Courts have ruled that you must show that this publicity and this notoriety given to it does have an effect, and here are citizens who talked to others. We can't certainly subpoena in every citizen from Hartford County, and what we are asking is not a conversation or opinion. We are asking for a fact, the fact of whether or not an opinion exists.

THE COURT: Let him answer.

Q. What is that opinion? A. Will you repeat that again, please?

THE COURT: Read the question.

(Last question read by the Reporter)

A. Well, the people I talked to, and I talked to a lot of them, and they seemed to say that something should be done about these killings, and in fact my own men at the garage, my night help wouldn't work any more unless I gave them a gun. That's right. And one night I had to work there myself because on this last killing when Rosenthal was killed none of them came in and I had to take it on myself and well, of course, if you don't hurt anybody nobody is going to hurt you, so I worked that night and there was a lot of talk about it and they should shoot them when they got them if ever they did get them.

Q. After these men were apprehended did you talk to your customers about what should be done with them,

or did they talk to you? A. I talked to several and their opinion was not even give them a trial, shoot them.

MR. BILL: Just a minute. This is a matter of talking to several.

Q. Let me ask you this: In your conversations with these people who come into your garage each day, how many would you say you talked to each day about this since these men were captured? A. The whole subject of any customers that came in was about these killings. I talked to a lot of people. I won't say five or ten, but I talked to a lot of people.

Q. And would you say that there exists an opinion as to what should happen to these fellows regarding a trial? A. Well, I talked to one lawyer in town, I won't mention his name -

MR. BILL: Objection, Your Honor. That would be hearsay.

THE COURT: Excluded.

Q. I am asking about an over-all opinion of all the people you have talked to? A. They say that these fellows, they should give them a trial but not in Hartford County. They should be taken to another County where most of the people haven't heard about this case and where they could get a fair trial. If they are guilty they should be killed and forget about it.

BY THE COURT:

Q. Mr. Palumbo, how many people told you that? A. Sir? Oh, a lot of people.

Q. Tell me some. Tell me the names of some people who told you that? A. I can't tell you the names, Your Honor, but anybody you talk about that case.

Q. You have just stated that people told you they should have a trial but not in Hartford County. Give me the names of some of those people? A. It's a forgotten issue, Your Honor. I just can't think right now.

Q. It was enough for you to come up here and testify. Don't you remember the names of the people who told you they should have a trial in some other County? A. If I have to stop to remember the names of all the people and run a business at the same time I wouldn't know what to do.

THE COURT: All right.

BY MR. BURKE:

Q. Mr. Palumbo, do you get around the Town of Newington? A. Yes, sir.

Q. In fraternal organizations? A. Yes, sir.

Q. You are a very active member of the Knights of Columbus, are you not? A. Yes, sir.

Q. Have you been to meetings of the Knights of Columbus since these men have been apprehended?
A. I have.

Q. And were there any discussions at these meetings regarding these murders and the apprehension of the alleged killers? A. After the meeting was over a group of men would get together and they would talk about it.

Q. How many would be in these groups? A. Oh, ten or fifteen people.

Q. And they would be a cross section of the citizens of Newington? A. Oh, yes, they were all from Newington.

Q. Did you from the conversation gather that there was a public opinion in Newington regarding these two men?

is all he talked to.

MR. BILL: Objection, Your Honor. Fifteen of twenty

MR. BURKE: I claim it. This happens to be citizens of the town, and it is a known fact that one of the ways of finding out public opinion is by sampling.

THE COURT: I do not believe that this gentleman is capable of reflecting public opinion in the community merely by discussing it with a few people who may gather after a meeting.

MR. BURKE: All right.

Q. Besides talking to these men after they would gather at the meetings, the Knights' meetings, where else did you have an opportunity to discuss this? Do you belong to the Businessmen's Association of the Turnpike?

A. I am the Treasurer.

Q. Have they at meetings discussed the apprehension of these alleged killers? A. Most of these Berlin Turnpike Businessmen's Association want to close earlier at night.

Q. Have they had any meetings since the apprehension of these men? A. We had one the other night at the - in Berlin.

Q. And how many were present there? A. Oh, about thirty people.

Q. And was there any discussion at that meeting regarding these alleged killers? A. Oh, they were glad that they were caught and they should give them a quick trial and get it over with.

Q. Where else have you discussed this matter in Newington, if at all? A. That's about all.

Q. Now - and you also had discussed it with customers coming in to buy gasoline, as you stated? A. Yes.

Q. Are you are to say, then, that there is a public opinion extant in Newington regarding this affair?

A. The people are very happy that these two men have been caught.

Q. Yes, but I want to ask you whether or not there is any opinion extant as to whether or not these men should be immediately shot or disposed of or tried? A. They say they should let them run and shoot them down like rats.

MR. BURKE: That's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Just a minute, another group you say feel that they want to have this moved out of the County, and now you talk about some men that want to have them try to escape and shoot them down like rats. Which is it?

A. I talked to a lot of people.

Q. And you got all this opinion? A. That's right. Different people.

Q. Oh, different opinions? A. That's right.

Q. So there isn't any opinion out there in Newington, you have a lot of different opinions, haven't you? A. You are talking about Newington, talking about the Berlin Turnpike and about the Knights of Columbus.

Q. Whatever you are talking about. A. Everybody wants to get rid of them. Shoot them down.

Q. You didn't say that before. You started out by saying one group wanted to be so fair and they were so careful that it ought to be moved out of the County; the next group, give them a quick trial. Now you say they want to have them shot down without a trial. Which is it? A. No man is guilty as far as I'm concerned until he is proven guilty. What right have I got to say "shoot a man". They tell me that. I have no right to shoot anybody.

Q. When are they going to shoot them? After the trial? A. If you was in my garage -

Q. Don't argue with me. A. Wait a minute.

Q. Just answer the question. No arguments. Read the question.

THE COURT: Is there anything about what any of these men said that indicated that they couldn't get a fair trial in Hartford County? A. No.

MR. BILL: That's all.

THE COURT: I am going to adjourn. The next time you come into a Courtroom will you please wear a jacket.

THE WITNESS: I have one there, sir.

THE COURT: Well, it would be good if you had it on. It doesn't do any good over there. Mr. Sheriff, adjourn until tomorrow morning at ten o'clock.

MR. BURKE: Will Your Honor make any order regarding the exhibits?

THE COURT: The Clerk will look after them.

(COURT ADJOURNED)

MARCH 20th, 1957

GEORGE TUDAN, a witness, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name please? A. George Tudan.

Q. Where do you live? A. Windsor, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Tudan, what is your business or profession or occupation? A. Town Clerk of Windsor.

Q. And how long have you been Town Clerk of Windsor? A. Approximately four years.

Q. Do you come in contact with many people of the population of Windsor? A. Yes, our office does.

Q. Daily? A. Yes, daily.

THE COURT: When you say your office - I think he means, do you personally?

MR. McDONOUGH: Yes, Your Honor, that's what it is.

THE WITNESS: Yes, through the office.

Q. You do come in contact with different persons? A. Yes.

Q. About how many people do you say you come in contact? A. In the office itself?

Q. Yes. A. It varies, of course; about thirty people.

Q. And how about going out to lunch at noontime, if you go out to lunch? A. Yes, I usually go over to the restaurant and there again occasionally meet people.

Q. A group of people? A. Yes.

Q. Are you in a position where you can hear discussions among a group of people in the restaurant? A. At times, yes, we can hear the discussions.

Q. And about say, daily, what is the average group you run into in the restaurant? I mean, if you are in a position where you can hear them talk. A. It depends on what side of the restaurant I sit on. When I am normally alone I will eat at the bar and listen to the conversation at the bar, and there it can be about fifteen people around the bar.

Q. That's in addition to the people that come into your office? A. That's right, sir.

Q. Are there any other groups in the evening, such as social or fraternal or political groups that you come in contact with during the course of that twenty-four hours?

A. Well, V.F.W.

Q. In other words, do you think you can safely say you come in contact with fifty or more people a day where you hear discussions or join in them? A. That may be a little high. I'd average it off to about thirty-five people a day.

Q. Have you heard discussions relative to what is known as the Taborsky - Culombe cases, the killings involved? A. When they apprehended the two, Taborsky and Culombe, there was quite a bit of controversy on that subject.

Q. And has there been right along? A. No, it has dropped in the last, I'd say two weeks.

Q. And from the discussions that you heard of the group of people that you testified to and that you joined in, do you know whether or not there appears to be a fixed opinion among the group so far as public discussion is concerned? A. Over-all I would say that the opinion -

MR. BILL: I submit the question should be answered "Yes" or "No".

A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

THE COURT: Oh, let him answer.

Q. What is that opinion? A. That they are guilty.

Q. Has there been any discussion as to whether or not they should even receive a trial? Any opinion, rather?

A. A fast trial.

MR. McDONOUGH: That's all.

MR. BURKE: I have no questions.

MR. WRIGHT: And was there any discussion that they couldn't receive a fair trial? A. No. sir.

MR. WRIGHT: No discussion of that sort?

A. No, sir.

MR. WRIGHT: That's all.

THE COURT: That's all.

EDWARD R. QUINN, a witness having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward R. Quinn.

Q. Where do you live? A. Rocky Hill.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Quinn, what is your business? A. General insurance.

Q. And where is your office located? A. Pearl Street.

Q. And do you work for someone or are you in business for yourself? A. Myself.

Q. Special Agent? A. No, General Agent.

Q. General Agent? Now, Mr. Quinn, do you associate with groups of people in the course of your business during the day? A. I do.

Q. And how many about? A. Well, it varies. It might be five to ten a day.

Q. And how about luncheon? Do you came in contact with groups of people? I don't mean that you yourself have lunch with them. Groups of people where you hear discussions? A. Sometimes.

Q. Well, by sometimes, do you do that on the average, daily average? A. Occasionally I'll have lunch alone or I go over to the Club maybe once or twice a week.

Q. Do you hear discussions among people during that luncheon hour? A. I have, yes.

Q. And during the rest of the day or the evening, fraternally or socially or politically are you among groups of people? A. Yes.

Q. During the course of the day between those three groups and any others that might occur to you have you heard discussions relative to Culombe and Taborsky who are on trial in this case for murder? A. I have.

Q. And from those discussions have you found out whether or not those groups had opinions? A. I have.

Q. Opinions as to a trial and for their guilt or innocense. A. Yes.

Q. And what did you find that opinion to be?

MR. BILL: Objection, if the Court please.

MR. McDONOUGH: Claim it.

THE COURT: You may answer.

A. They were guilty.

Q. How about a trial? A. The concensus was that a trial was wasted.

Q. A trial wasted? A. Wasted time.

MR. McDONOUGH: That's all.

MR. BURKE: No questions.

CROSS-EXAMINATION BY MR. BILL:

Q. Did you discuss with any of these people, Mr. Quinn, whether they could get a fair trial in this County? A. No.

Q. Was there any discussion that they could not get a fair trial in this County? A. No.

MR. BILL: That's all.

MR. McDONOUGH: That's all.

PHILIP E. GRAY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Philip E. Gray.

Q. Where do you live? A. Bloomfield, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Gray, what is your business? A. I am proprietor of a sporting goods store.

Q. Located where? A. Haines Street in Hartford.

Q. How long have you been in that business? A. Twenty-four years.

Q. Now, Mr. Gray, during the course of the day do you come in contact with people? A. I sure do.

Q. And about how many on an average, would you say? A. Oh, thirty, maybe personally. Twenty or thirty.

Q. A day? A. Yes.

Q. And are these groups of people that come into your store and do business with you? A. Yes.

Q. And do you go to luncheon at noon? A. Yes.

Q. You run into groups of people there? A. Yes.

Q. And about how many do you run into on a daily average? A. Well, forty, maybe. I'd say forty.

Q. Forty? And during the evening so far as social engagements or political or fraternal, do you come into contact with groups? A. Lodge Meetings and Fish and Game Clubs and so forth.

Q. Over-all about how many people do you come in contact with a day? A. Well, that's kind of hard to average up because the meetings aren't every day. Say forty or forty-five.

Q. Forty to forty-five people a day? A. Yes.

Q. Have you heard discussions relative to Arthur Culombe and Joseph Taborsky who are indicted and face this Court? A. Yes, I have.

Q. And about the killings that they are charged with? A. Yes.

Q. And have you heard an opinion, a general opinion expressed by the public as shown by this group? A. I have heard quite a bit, being in the Sporting Goods business and the gun angle, I've heard a lot of it.

Q. What is the opinion that you have heard expressed?

MR. BILL? Objection.

THE COURT: Let him answer.

A. They are very guilty, very much so.

Q. Guilty, Very much so? A. Yes.

Q. How about a trial? A. Well, yes, some say yes and some say they shouldn't have a trial.

Q. Has there been any what you would call hostility expressed to them? A. By hostility you mean - I don't quite understand.

Q. Has the attitude been hostile against them?
A. Somewhat, I would say. Some classes, different people, different types.

Q. And what do you say they reflect as far as a trial was concerned? A. Some said they should have a trial and some said they should just do away with them.

MR. McDONOUGH: That's all.

THE WITNESS: They have done enough damage.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Gray, have you noticed in your discussions with these people an opinion as to whether they are prejudiced against these two men?

MR. BILL: Obejection.

THE COURT: Let him answer.

A. I would say they are prejudiced as to the majority.

Q. The majority of them are prejudiced against these two? A. I would say so, from what I hear.

MR. BURKE: That's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Hasn't it been your experience, Mr. Gray, all through life that people are hostile to murders? A. Not necessarily. Where there is a doubt I wouldn't say so, but where there isn't any doubt - that's for the Court.

Q. Was there any discussion by this group that you speak of that these men could not get a fair trial in Hartford County? A. I never heard that.

MR. BILL: That's all.

BY THE COURT:

Q. When you say you have thirty people come into your store, they came in on business? A. Yes, but generally they discuss - you know, the Sporting Goods business is a little different from the run of the mill. They are friendly fellows and they like to talk, and professional men at noon come in and make their purchase and they may stand around the corner talking to one of their friends.

Q. Do you think that every one of the thirty people that came in have discussed this case with you?
A. I wouldn't say everyone, no, sir.

Q. I assume some of them have discussed it from the angle of robbery, the use of guns, because they were interested in hunting? A. Well, that has part to do with it.

Q. They are prejudiced against people who use guns improperly? A. Right.

MR. BILL: No questions.

MR. McDONOUGH: That's all.

JOSEPH CAMILLERI, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Joseph Camilleri.

Q. Where do you live? A. Hartford, 54 Montowese Street.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Camilleri, will you tell me the business you are engaged in? A. Barbering.

Q. Where is your shop? A. 249½ Farmington Avenue.

Q. Would you tell me how many people a day you come in contact with who come into your shop? A. It's an average of about sixty to seventy-five people a day come into my shop.

Q. Of these sixty or seventy-five do you have occasion to discuss the events of the day with them? A. Yes.

Q. Now, you are also a member of some fraternal groups, are you not? A. Several.

Q. In the past couple of months have you been going to these fraternal meetings? A. Yes.

Q. How many people would you say on the average that you meet at these fraternal gatherings? A. Sereval dozen. It all depends which fraternity you go to.

Q. While you are with these people they discuss the current affairs and events of the day? A. Especially among barbers.

THE COURT: Among what?

A. Among barbers.

Q. Now, in the past couple of months have you heard discussions and have you discussed with these people the killings with which Taborsky and Culombe are charged?

A. It has been quite a topic. It has been quite a discussion.

Q. Did you find that there was a fixed opinion among those people as to the guilt or innocence of these fellows?

A. Very much so.

MR. BILL: Objection.

THE COURT: "Yes" or "No".

A. Yes.

Q. Would you tell us what that opinion is?

MR. BILL: Objection.

THE COURT: Mr. Camilleri, how many barbers do you have?

A. I hire four barbers.

THE COURT: How many people do you yourself serve?

A. Not too many.

THE COURT: I don't believe, really, that Barber Shop gossip ought to be brought in as evidence here. I know what Barber Shop gossip is and I think that's all that it can be in a case like this.

MR. BURKE: If Your Honor please, I would like to claim it on the grounds that there are people who are coming in and sitting in the Barber chair who do talk and express opinions, and certainly if there is a fixed opinion among people the Court should hear it, and further he has testified that he has discussed this with many fraternal groups.

THE COURT: Do you object?

MR. BILL: Yes, Your Honor, I object for three reasons to all this type of testimony. One is that these men are not experts on public opinion. Secondly, it is all the rankest type of hearsay. And third, it is usurping the function of the voir dere. That's what we have the voir dere for. These men will have thirty challenges apiece. We are doing the whole thing here in advance.

MR. BURKE: If Your Honor please, we are not asking for hearsay testimony. What we are trying to establish is a fact, and that fact is that there is a fixed opinion among the people of this County that these men could not get a fair and impartial trial, but that the people are prejudiced and hostile to them.

THE COURT: What witness have you produced that has said that, that they cannot get a fair and impartial trial? I have heard no such testimony here.

MR. BURKE: At any rate we have produced witnesses to show that hostility does exist and we have also produced witnesses to show that in the minds of many people they are already guilty.

THE COURT: I will exclude the testimony of this witness because I do not believe that he is competent to give evidence as to public opinion from his position in a Barber Shop nor from his contact with people that he comes into contact with socially.

MR. BURKE: May I have an exception, Your Honor?

THE COURT: You may have an exception.

MR. McDONOUGH: The exception will apply to both defendants, Your Honor?

THE COURT: It applies to both defendants. Do you have any questions?

MR. BILL: No, sir.

FRANK E. CONRAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Frank E. Conran.

Q. Where do you live? A. 49 Enfield Street, Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Conran, what is your business? A. I am an insurance representative.

Q. And how long have you been engaged as an insurance representative? A. Thirty-two years.

Q. What type of insurance do you handle? A. Life and disability coverage.

Q. Do you come in contact with many people during the course of the day, the general public? A. I do.

Q. About how many? A. About twenty.

Q. About twenty in the course of your business? A. Business.

Q. Do you come in contact with other groups of people during the day? A. I do.

Q. What are the other groups? A. Well, like the City Club Luncheon down there, and the Elks and various other places that I go.

Q. During the course of the day about how many people, including the people you do business with and at lunch and the Elks Club and the other clubs, about how many do you come in contact with? A. Twenty-five to thirty, I'd say.

Q. Have you heard discussions relative to the coming trial of Arthur Culombe and Joseph Taborsky? A. I have

Q. And the killings with which they are charged? A. I have.

Q. And from listening to those discussions have you found whether or not there was an opinion expressed by this group? A. Yes.

Q. And what is that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. The general opinion is that they are definitely guilty, should be tried as quickly as possible.

MR. McDONOUGH: That's all.

MR. BURKE: No questions, Your Honor.

MR. BILL: Has there been any opinion expressed that they could not get a fair trial in Hartford County?

A. There has not.

MR. BILL: Thank you.

DAVID RYAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. David Ryan.

Q. Where do you live? A. Seymour Street, Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Ryan, how long have you lived in Hartford?
A. All my life.

Q. What is your business or occupation? A. I am employed by Yellow Cab as a cab driver.

Q. And how long have you been working for the Yellow Cab Company? A. Six and a half years.

Q. In the course of your work do you come in contact with a portion of the public in Hartford? A. I would say in my work an average of thirty-five people a day.

Q. And do you have - have you heard discussions from the people that you mentioned regarding Arthur Culombe and Joseph Taborsky now facing trial for murder?
A. I have.

Q. Have you heard discussions about their coming trial? A. Not too much about the trial itself. Just that they said - most of the people -

MR. BILL: Now -

Q. What were the discussions about, the killings or the trial? A. It was about the killings before they were

apprehended and after they were taken into custody, the majority of people -

MR. BILL: Now I object.

BY THE COURT:

Q. Let me ask you, you say you see about thirty-five people a day? A. On an average, Your Honor.

Q. Those are customers in your cab? A. Yes, sir.

Q. Do you discuss matters with your customers that you drive, all of them? A. I don't unless the customers start to talk first.

Q. Of the number that you drive how many people get in conversation with you in regard to a matter like this?
A. I'd say about two-thirds of the people.

Q. About twenty or so? A. Yes, sir.

Q. Who discuss it with you, is that right?
A. I would say so.

THE COURT: Proceed.

BY MR. McDONOUGH:

Q. And with more than one passenger in the cab have you heard it discussed between the passengers? A. I have.

Q. Now, from those discussions have you heard an opinion expressed as to the guilt or innocence of these accused or to their manner of trial? A. I have.

Q. What was that opinion?

MR. BILL: Objection.

THE COURT: I'm going to sustain the objection. I do not believe that a man in his position is able to reflect public opinion from the customers that he may drive in his cab.

MR. McDONOUGH: Exception please. That's all. Thank you.

THE COURT: You may have an exception.

EDWARD P. QUINN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward P. Quinn.

Q. Where do youlive ? A. West Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Quinn, what is your occupation? A. Registrar of Voters in West Hartford.

Q. How long have you been Registrar of Voters in West Hartford? A. About fourteen years.

Q. You are a former Deputy Sheriff in this County? A. That's right.

Q. About how many people a day in the course of your duties as Registrar of Voters do you come in contact with? A. Oh, I don't know as though I could say how many a day, because there's quite a few.

Q. What? A. Quite a few we see during the day, but we are in and out most of the time.

Q. About how many people a day from all groups, fraternal, political or your duties as Resigtrar of Voters, do you come in contact with during the day? A. I should say probably about forty.

Q. And that group of people that you come in contact with during the day, do you join in discussion with some of them or listen to discussions with some of them? A. With some of them, yes.

Q. Have you heard an opinion expressed relative to Arthur Culombe and Joseph Taborsky who are facing trial for first degree murder? A. I have.

Q. And the killings with which they are charged? A. I have.

MR. BILL: I object at this point, Your Honor. This will come up again and I'd like to have this question framed properly. An opinion expressed might be a single opinion. This will be a general opinion.

Q. Have you heard a general opinion? A. That's right.

Q. "Yes" or "No". A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. I'd say that they feel the two defendants are guilty.

Q. And how about a trial? Have you heard any expression as to a trial? A. A few have said they should be shot without a trial, but I think the majority of the people want a trial, a fair trial for them.

MR. McDONOUGH: That's all.

MR. BILL: The majority of these people think they can get a fair trial and should have a fair trial? A. I think they do.

MR. BILL: That's all.

MR. McDONOUGH: That's all, Mr. Quinn.

ARTHUR J. REEVE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Arthur J. Reeve.

Q. Where do you live? A. Burlington, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Would you tell us your official position in Burlington, Mr. Reeve? A. I am Chairman of the Board of Education and Town Clerk.

Q. You have held those positions for quite some time? A. I have.

Q. How big a town is Burlington? A. I think the last census gave it at eighteen hundred and some odd.

Q. In your capacity as Town Clerk and Chairman of the Board of Education do you have occasion to meet the people of Burlington? A. Some of them.

Q. How many would you say you meet in a week or a day? A. That varies greatly. I might meet one or two some days and other days fifteen or twenty.

Q. And how about at these town gatherings, such as Town Meetings? Have you had any recently? A. Yes, we have.

Q. And haven't you had also Zoning Hearings lately? A. We have.

Q. And at those meetings do you have occasion to meet a great number of people from Burlington?

A. I wouldn't say a great number. Perhaps meet and talk with personally a dozen or fifteen.

Q. Now, do you also belong to fraternal groups in Burlington? A. I belong to the American Legion and the Men's Club.

Q. Do you have occasion to meet with the men of that group? A. I do.

Q. Do you belong to the Volunteer Fire Department up there? A. I believe I am a member but I am not active.

Q. Now, Mr. Reeve, in your capacity as Town Clerk and meeting the people that you have, have you found that there exists in Burlington an opinion regarding the killings and the alleged murderers, Taborsky and Culombe?

A. No, I would say not.

Q. You found no opinion to exist? A. I haven't discussed it with enough people - very few people. I don't believe over one or two have mentioned it to me.

MR. BURKE: That's all.

MR. BILL: There has been very little discussion in Burlington, Mr. Reeve, you say? A. Very little. As far as I am concerned I have heard very little about it.

THE COURT: I don't know if you heard him. He said he had discussed it with perhaps not over one or two.

MR. BILL: That's all.

THE COURT: That's all.

THE WITNESS: May I be excused?

THE COURT: You may be excused.

HAROLD W. SCHEIDEL, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Harold W. Scheidel.

Q. Where do you live? A. 31 Gildersleeve Avenue, Collinsville.

DIRECT EXAMINATION BY MR. BURKE:

MR. Scheidel, you operate a market in Collinsville? A. I do, sir.

Q. And in the course of your business do you meet the people of Collinsville each day, some of them? A. Yes, sir.

Q. About how many do you talk to a day that come into your store? A. Well, it varies, sir. The early parts of the week there isn't too many and I would say that to talk to perhaps it would average maybe fifty.

Q. Do you belong to fraternal groups or civic groups up there in Collinsville? A. I belong to a lot of them.

Q. Have you had occasion to go to meetings of those groups in the past couple of months? A. Not too many, sir.

Q. Do you have occasion to meet people on the street or when you are at meetings? A. Well, I don't see too many on the street because my occupation is a one man operation with a little part time help. Consequently I work most of the time and I've got very little time to attend these affairs or to converse with people.

Q. How about on Sundays at church? Do you see people after the service? A. I see a lot of them but I am open Sunday morning and I am quite busy waiting on them. We don't get a chance to say anything except to say "Hello".

Q. In meeting the people that you do at your store have you had occasion to discuss with them or overhear discussions by them of these killings and the alleged killers, Taborsky and Culombe? A. I want to say and I mean that I have perhaps overheard more than what I have taken part in discussing.

Q. You have overheard your customers talking?
A. Among themselves.

Q. And did you find from overhearing these customers talk that there was an opinion regarding these fellows,

existing in Collinsville? A. Somewhat, but most of them seemed to be rational about the whole thing. The first thing they would say, "Well, they got them, let's get rid of them," things of that nature. But I personally don't take too much active part in it. Well, simply because I don't have the time a lot of times.

Q. That's what you hear them saying, "They got them, let's get rid of them"? A. Right.

Q. Did they express any opinion as to whether or not they were able to receive a fair and unprejudiced trial in this County? A. I haven't heard that mentioned, sir.

Q. Did they show any animosity, prejudice or hostility against these two men? A. In some of the discussions which I overheard I'll say they did, and they would always say to me, "Well, are you afraid"? as part of their comments, even though I was not in the discussions, and I would say "Yes".

Q. Did you find that there existed in Collinsville a state of terror while these killings were going on?

A. Let me say this. I was terrified while they were going on, because I have to face the people.

MR. BILL: I object to this, Your Honor. This is getting down to single conversations now and personal opinions.

THE COURT: Have you heard any discussions as to whether they could have a fair trial?

A. I did not, Your Honor.

THE COURT: Have you heard any discussions that they could not have a fair trial in Hartford County?

A. I did not, Your Honor.

MR. BURKE: Did you hear any discussions regarding any prejudice against these two fellows or any expression

of the opinion that they are already guilty before trial?

A. I cannot pinpoint anything of that nature, sir.

MR. BURKE: Thank you.

MR. McDONOUGH: No questions.

MR. BILL: No questions.

EDWARD F. KILLIAN, JR., having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Edward F. Killian, Jr.

Q. Where do you live? A. East Granby, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Killian, do you hold an official position in East Granby? A. Yes, sir, I do.

Q. What is it? A. Member of the Board of Selectmen.

Q. And you are the first Selectman of East Granby for quite some time? A. Yes, sir.

Q. And you are engaged in politics up there?

A. Yes, sir, more or less.

Q. Interested in political affairs?

THE COURT: I assume he is another Demecrat.

MR. BURKE: Yes, sir, he is.

THE COURT: Just like his father.

Q. Now, Mr. Killian, in the course of your business during the day do you have occasion to talk to the citizens of East Granby? A. In the course of my business during the day, Mr. Burke, no. Politics in East Granby is a part time job.

Q. How about at night, did you talk to the citizens of East Granby? A. Yes, sir, I did.

Q. How many on an average would you say you talked to during the week? A. That, of course, would depend on the functions scheduled for the week. I would say on an average per week probably twenty-five to thirty.

Q. In the past month or so you have been engaged in caucuses, have you not; up there? A. No, sir.

Q. No Caucuses? A. We are a fall town.

Q. Have you had meetings of political groups?
A. Political and social groups, yes, sir.

Q. And how many people would you say you have had occasion to talk to in a week through that medium?
A. To talk privately or have private conversations with, I would say probably thirty.

Q. Do you have occasion to overhear conversations that these groups have or overhear other people in East Granby talking about events of the day? A. Well, yes, sir and of course at my place of employment, too.

Q. And how many people would you say on an average that you overhear discussing events of the day, especially these killings and the apprehension of these two men, Taborsky and Culombe? A. Well, at the time of the apprehension and the week following, of course, it would be a high rate. It was quite a topic of conversation. Probably sixty or seventy.

Q. Did you find that there was a fixed opinion as to these two men?

THE COURT: "Yes" or "No".

A. Yes.

Q. Yes. A. Yes.

Q. And what was that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. The opinions of necessity I think would vary. Probably the most charitable opinion would be, that I have heard or I am familiar with, would be to give them a quick trial and sentence them, but that would be the most charitable.

Q. What is the general opinion that is not quite that charitable?

MR. BILL: Well, now, what proportion?

THE COURT: I don't understand. Are you objecting?

MR. BILL: I object, Your Honor.

THE COURT: I don't think that's a proper question.

MR. BURKE: I am asking for the general opinion of these groups.

THE COURT: If you stop there you may answer.

A. The general opinion would be that the men were guilty.

Q. And have you heard any opinion or is there opinion existing that you heard discussed as to whether or not there exists in this County any prejudice or hostility towards these two men? A. No, sir.

Q. You haven't heard any? Have you heard any opinion as to whether or not they could obtain a fair trial in this County? A. No, sir. The assumption is they would get a fair trial.

MR. BILL: I object to any assumption.

THE COURT: I'll let it stand. The assumption is they

would get a fair trial?

A. Yes, sir.

MR. BILL: I withdraw m objection.

MR. BURKE: I move it be stricken. That's all.

MR. BILL: No questions.

MARGARET K. SMITH, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Mrs. Margaret K. Smith.

Q. Where do you live? A. I live in East Granby.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mrs. Smith, could you tell us if you hold any official position in the town, political or otherwise? A. Well, yes, I am the Democratic Town Chairman of East Granby.

Q. As such do you have occasion to talk to the people of East Granby? A. Many times.

Q. And how many would you say on an average you talk to during a week in the past couple of months?

A. Oh, that would vary. It would depend on how many meetings we had, and functions in the town.

Q. Have you been active in the last couple of months in East Granby on the Committee? A. Yes, I have.

Q. Do you have occasion to go out seeking new voters?

A. Well, not recently. we haven't tried.

Q. How many people - do you belong to civic groups up there and Parent Teacher's Associations and so on?

A. Yes, sir, I do.

Q. And have they had meetings recently that you attended? A. Yes, I have.

Q. And how many people would you say you have occasion to meet in East Granby during any week?
A. Oh, perhaps twenty or twenty-five.

Q. How big is East Granby? A. About a population of seventeen hundred people.

Q. In your talking with the people of East Granby have you had occasion to overhear their discussion of the events of the day? A. Yes, sir.

Q. And have you had occasion to overhear discussions regarding the killings and the two men apprehended for them? A. Not too much in general discussion other than they were very happy when they were apprehended.

Q. Do you find there exists any fixed opinion in East Granby as to whether or not they could obtain a fair trial in Hartford County? A. No, sir.

Q. There is not a fixed opinion that you could discover? A. Not that I could.

Q. Do you find there is a fixed opinion in East Granby regarding any prejudice or hostility against these two men?
A. No, sir.

Q. Was there any fixed opinion in East Granby that you ascertained as to their guilt or innocence? A. Only within my own family.

Q. What's that? A. Only within my own family.

Q. But not general opinion? A. No, sir.

MR. BURKE: That's all, thank you.

MR. BILL: No questions.

GEORGE W. HULL, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. George W. Hull.

Q. Where do you live? A. Burlington.

DIRECT EXAMINATION BY MR BURKE:

Q. Mr. Hull, how long have you lived in Burlington?
A. Thirty-four years.

Q. You have been quite active in public affairs in Burlington, have you not? A I have.

Q. What official positions do you now hold if any?
A. Chairman of the Board of Assessors.

Q. And do you hold a position or did you, with the Democratic Town Committee? A. I was formerly Chairman.

Q. And you at one time held an official position with the Republican Town Committee? A. I was also Chairman of the Republican Town Committee at one time.

Q. You take quite an active interest in civic affairs in Burlington, do you not? A. Yes.

Q. And recently Burlington has had meetings regarding zoning, has it not? A. That's right.

Q. And these meetings are well attended?
A. Quite well attended.

Q. Do you have occasion to speak to the people of Burlington in your going around as an assessor? A. Yes.

Q. And about how many people would you say that you speak to on an average over a week? A. That is divided between Bristol and Burlington. In other words, our office is in Bristol and our home is in Burlington. Probably on an average I talked to fifteen to twenty-five people a day.

Q. You are in the insurance business in Bristol?

A. No. I manage the real estate end of the business and Mr. Hull manages the insurance end.

Q. Your office is in Bristol? A. That's right.

Q. Do you occasionally take lunch at restaurants in Bristol? A. Restaurants in Bristol. I am an official at the cafeteria in the school in Burlington.

Q. How many people would you say, average a week, do you talk to in Bristol and Burlington? A. Oh, somewhere between one and two hundred.

Q. And do you find, Mr. Hull - oh, you are also a member of fraternal and civic groups? A. Yes.

Q. You are quite active in civic affairs of Bristol as well, aren't you? A. Yes.

Q. And you have occasion to talk to many people in Bristol through that medium? A. That's right.

Q. Do you find in your discussions with people overhearing discussions by other people that there is a fixed opinion in Bristol and Burlington regarding the guilt or innocence of Taborsky and Culombe? A. I'd like to put it this way, my opinion that I have expressed, and I have expressed it frequently.

MR. BILL: The answer should be "Yes" or "No", to start with.

THE COURT: You have a fixed opinion yourself?

A. Yes, I have, and I have discussed it with a good many people. Nobody disagreed with me.

Q. What is the fixed opinion you have found among the public that you meet and talk to each day?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: Certainly his fixed opinion isn't anything that the Court can say represents public opinion in his community.

MR. BURKE: I am asking for his fixed opinion passed by him in the community in his discussions.

THE COURT: He says he doesn't know that. He has merely expressed his own opinion.

A. Nobody has disagreed with my opinion. They all agreed with me.

BY THE COURT:

Q. How do you know they agreed with it? A. They said so, expressed their opinion and I had an opportunity to tell what mine was.

Q. Go ahead. A. I expressed the opinion that a mad killer like a mad dog should be executed as speedily as possible.

MR. BURKE: Do you find that to be the fixed opinion of the people you talked to?

A. Yes.

BY THE COURT:

Q. You are a public official? A. Yes, I am.

Q. You feel that a mad killer or any kind of a killer should have a fair trial under the law? A. I feel for the protection of society and innocent people, that transcends the right of everyone.

Q. You don't believe because a man is a killer he should have a fair trial? A. Not a killer on a wholesale basis. I'd be tough with him.

Q. You think he should be executed without any trial? A. A trial as speedily as possible.

Q. You are a public official and you believe a man shouldn't get a fair trial under the law? A. I believe he should have a speedy trial.

Q. Is there anything in your opinion that would preclude him from getting a fair trial in Hartford County?

A. Personally I think it is a state-wide case and opinion would not vary too much throughout the commonwealth. It's a small state.

Q. You think the prejudice would be just as large? You are a public official? A. I am.

Q. You believe in upholding the law? A. I do.

Q. You feel a man accused of crime should get a fair trial? A. Yes, a fair trial, but a very speedy one in this case.

Q. That's within the process of the Judicial Department and the State's Attorney. Do you feel that a man should get a fair trial? A. Yes.

Q. Do you think he could get one in Hartford County?

A. I think opinion is very much fixed in Hartford County. No doubt about that.

Q. You got that from your own fixed opinion as you have expressed it to various people? A. That's right.

BY MR. BURKE:

Q. Do you find, Mr. Hull, there exists a fixed opinion of prejudice and hostility against these two men?

A. Naturally.

Q. Do you find also that there is a fixed opinion as to the guilt of these men? A. I don't think there is any doubt about it in the mind of most of the people.

Q. Do you find an opinion expressed as to whether or not there could be obtained a jury of unprejudiced minds

in this case? A. I heard no discussions on the subject whatsoever, Mr. Burke.

MR. BURKE: That's all.

MR. McDONOUGH: No questions.

CROSS-EXAMINATION BY MR. BILL:

Q. Do I understand, Mr. Hull, that you go around preaching this idea to everybody you see? A. No, but quite frequently I have expressed my opinion the same as I do on other matters.

Q. You do a lot of talking among the public?
A. I do.

Q. And if these murders had happened in Bridgeport would you still feel the same way about these men?
A. Probably not so intense as if they were committed in this area.

Q. You still feel they should be taken out and shot?
A. I don't say shot. I think the process is electrocution in this State.

Q. Before you came here this morning did you discuss with any of the lawyers in this case what you were going to say here? A. No.

Q. You had no idea what you were going to testify about? A. Not the slightest.

Q. You feel this matter is state-wide? A. To some degree, yes.

Q. Do you travel around the state yourself?
A. Yes.

Q. And you still preach this gospel wherever you go?
A. No. I have been attending meetings and other gatherings.

MR. BILL: That's all.

MR. BURKE: That's all. May Mr. Hull be excused, Your Honor?

THE COURT: He certainly may.

RAYMOND MARCOTTE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Raymond Marcotte.

Q. Where do you live? A. Bristol.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Marcotte, what is your busi[redacted] A. I am the Hartford County Sealer of Weights and Measures.

Q. You were formerly a deputy sheriff in this county? A. That's correct.

Q. Where is your office located? A. In the County Building.

Q. Here in this building? During the course of the day do you come in contact with any segment of the population here in Hartford County? A. Yes, I do.

Q. What part of the county? A. Well, within the western part of the county.

Q. You are not confined to the city of Hartford, are you? A. Oh, no.

Q. You live n Bristol and you work out of Hartford? A. That's correct.

Q. And by the western segment of the county what towns does that take in? A. Avon, Simsbury, West Hartford, Plainville, Farmington, Southington.

Q. And during the last two or three months, since December 15, about how many people during the course of

the week, your business week, do you come in contact with?

A. About sixty to seventy-five.

Q. That's in the course of a business week?

A. That's correct.

Q. Have you heard Arthur Culombe and Joseph Taborsky, the defendants in this case, discussed?

A. Somewhat.

Q. By somewhat what do you mean? I don't mean that you engaged in discussions. Imean that you heard people talking about or to talk with you? A. I probably heard about, say from six to ten at the most, talk about it.

Q. You mean all during this period of time?

A. Yes.

Q. Do you belong to any fraternal organizations?

A. Yes, I do.

Q. Have you heard any discussions among other people where you have been to those meetings? A. I haven't been to any in this past month or so.

Q. Have you heard a fixed opinion expressed generally? A. From the conversations that I heard, an opinion or a feeling was expressed.

Q. And what was that?

MR. BILL: Objection, Your Honor.

THE COURT: I'll exclude that testimony. It is too limited.

MR. McDONOUGH: May I have an exception?

THE COURT: You may.

MR. McDONOUGH: That's all, Mr. Marcotte.

ROBERT E. FOLEY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Robert E. Foley.

Q. Where do you live? A. Southington.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Foley, would you tell us if you have an official position in the town of Southington? A. I do.

Q. What is it, please? A. Town Clerk and Treasurer.

Q. Do you hold any other positions with any official bodies in Southington? A. Secretary of the Chamber of Commerce.

Q. And how about political organizations?
A. Secretary of the Democratic Town Committee.

Q. How about civic organizations? A. Well, the Chamber.

Q. Do you belong to the Exchange Club down there?
A. The Lions.

Q. Do you belong to any other fraternal or civic or service organizations? A. A number.

Q. Now, in the course of your business, your official business, you come in contact with the people of Southington? A. Yes.

Q. About how many people do you come in contact with through your official position as Town Clerk?
A. Oh, thirty or forty a day.

Q. And do you meet people at these gatherings, political gatherings, as well? A. I do.

Q. And at the civic gatherings? A. Yes.

Q. And over the past two or three months could you give me an average number that you have met of citizens

of Southington, an average number a week? A. Oh, a hundred, perhaps.

Q. And in your meeting of these people and being at meetings were you in a position to overhear discussions and to discuss events of the day with these people? A. Yes.

Q. And among the events that you discussed and have heard discussed have you heard discussed the killings and the apprehension of the two men, Taborsky and Culombe? A. Yes.

Q. Now, from your discussions and hearing discussions could you tell us whether or not there exists a fixed opinion in Southington regarding the guilt or innocence of these men? A. Yes.

Q. And what is that opinion?

MR. WRIGHT: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: Let him answer.

A. There is an opinion of guilt.

Q. Do you find that there exists any fixed opinion of prejudice or hostility against these men? A. I would say the people are aroused.

Q. Do you or have you heard any discussions or fixed opinion as to whether or not a fair and impartial jury could be impanelled in Hartford County? A. No.

Q. Have you heard whether or not these men should be given a fair trial, any fixed opinion in Southington? A. I can't say that I have.

Q. From your discussions would you say there is a fixed opinion or an air of prejudice and hostility against these two men?

MR. WRIGHT: That question has been answered, Your Honor.

THE COURT: It has been answered and, of course, it is leading and suggestive. Do you claim the question?

MR. BURKE: In the light of Your Honor's comment I don't dare.

THE COURT: Do not fear me. You go ahead and ask any question you wish.

Q. Mr. Foley, have you found in your discussions and overhearing discussions that there exists a fixed opinion in Southington regarding these two men, as to hostility or prejudice?

MR. WRIGHT: Objection. It's been answered.

MR. BURKE: I'll claim it, Your Honor.

THE COURT: It is certainly leading, is it not?

MR. BURKE: It is leading in form.

THE COURT: Why don't you just ask him if there is a fixed opinion and what it is, and let him give the answer.

MR. BURKE: All right.

Q. Is there a fixed opinion?

MR. WRIGHT: Objection.

A. Yes.

MR. WRIGHT: Objection.

THE COURT: Let him answer.

MR. BURKE: And tell me, what is the fixed opinion among the people of Southington regarding this case and these men?

THE WITNESS: That they are guilty.

Q. Is that all? A. Generally.

MR. BURKE: I think that's all.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Well, Mr. Foley, you said "generally." Is there anything else that you can tell us about this opinion?

A. No. I would say that it is just an opinion of definite guilt.

Q. And in these discussions that you have heard, what type of discussions have they been? By that I mean the intent, the tenor of them? A. I don't know as I understand your question.

MR. McDONOUGH: I'll withdraw the question.

BY THE COURT:

Q. You meet about a hundred people a week, you think, in the course of your traveling around Southington?

A. At least.

Q. Southington is a rather compact community, is it not? A. It is.

Q. Do you hear expressions of opinion from all the people that you meet during the week? A. Not necessarily all of them, Your Honor.

Q. It would be what? Just a few people that you yourself discuss it with?

MR. BURKE: Your Honor, I couldn't hear your question.

Q. Would it be a few people that you come in contact with, or is it generally discussed among everybody that you come in contact with? A. It has been quite generally discussed.

Q. It was a topic of great interest? A. I would say.

Q. Was there any expression of opinion as to whether or not these men could get a fair trial in Hartford County? A. No.

Q. Was there any expression of opinion that they could not get a fair trial in Hartford County? A. No.

MR. WRIGHT: The discussions, Mr. Foley, have they died down somewhat in the last few weeks?

THE WITNESS: I would say they have.

MR. WRIGHT: Thank you.

THE COURT: That's all.

MR. BURKE: You may be excused, Mr. Foley.

EDWARD SERENET, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward Serenet.

Q. Where do you live? A. Newington, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Serenet, do you have an official position in the town of Newington? A. Yes, Town Clerk.

Q. Do you belong to any political and civic groups? A. Some civic.

Q. Which ones are they? A. Kiwanis and the Volunteer Fire Department.

Q. In the course of your duties as town clerk do you have occasion to come in contact with the people of Newington? A. Some, yes.

Q. About how many a day or a week would you say you come in contact with? A. At least ten a day on the average.

Q. And do you have any contact with the people of Newington at noontime? A. No.

Q. How about in the evenings at civic meetings?
A. I haven't been very active lately.

Q. You haven't been very active lately? A. No.

Q. But do you have other occasions where you meet or discuss or overhear discussions by citizens of Southington? A. Southington?

Q. I mean Newington? A. No.

Q. So that you talk to about ten citizens of Newington a day on the average? A. Right.

Q. Have you heard - overheard discussions by the citizens of Newington regarding these killings that have been going on? A. No.

Q. You haven't heard any discussions? Do you know whether or not there exists any fixed opinion in Newington as to the killings and prejudice existing against the two men apprehended? A. There was so little discussion on it I don't think there is any opinion as far as my office or I am concerned.

Q. As far as you know, you don't know of any opinion? A. No.

MR. BURKE: That's all.

MR. McDONOUGH: No questions.

MR. BILL: In other words, there has been very little discussion of this whole matter in Newington, is that correct?

MR. BURKE: I object to that. He didn't say that.

MR. BILL: That's what he said.

MR. BURKE: He didn't.

THE COURT: His knowledge is so limited that I don't believe that his opinion is of any value, anyway.

MR. BURKE: Is Your Honor going to take a recess?

THE COURT: I got so interested in the witnesses that I forgot all about the recess. I think I'll do it now.

(RECESS: 11:38 - 11:55 A.M.)

ALBERT H. CURTISS, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Albert H. Curtiss.

Q. Where do you live? A. Simsbury.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Curtiss, do you hold an official position in the Town of Simsbury? A. I do.

Q. What is it? A. First Selectman.

Q. Do you hold any other official positions? A. I do.

Q. What are they? A. President of the Association of Cities and Towns of the State of Connecticut.

Q. Do you belong to any civic or fraternal groups in Simsbury? A. I do.

Q. And what are they? A. Democratic Party, Saint Mark's Lodge. That's all at the present time.

Q. And in your capacity and duties as First Selectman do you have occasion to meet the people of Simsbury?
A. I do.

Q. And how many of the citizens of Simsbury do you talk with or meet in the course of a day or week?
A. About this case or just talk with?

Q. Just talk with? A. A minimum of about fifty a day, seven days a week.

Q. About fifty a day, seven days a week? And does that include fraternal meetings and political meetings as well? A. That does.

Q. In your meeting of these people do you have occasion to overhear discussions of events of the day?
A. I do.

Q. Have you heard or overheard any discussions regarding these killings and the apprehension of Culombe and Taborsky? A. I have.

Q. Do you find, Mr. Curtiss, that there is a fixed opinion in Simsbury regarding whether or not there is any prejudice or hostility against Taborsky or Culombe?
A. I do not.

Q. You do not find that there is any? A. That's right.

Q. Do you find there is any fixed opinion in Simsbury as to whether or not these men should receive a trial?
A. I do.

Q. And what is that opinion? A. They should have a fair trial.

Q. Do you find there is any fixed opinion in Simsbury regarding the guilt or innocence of these men? A. I do.

Q. What is that opinion? A. That they are guilty.

Q. Do you find whether or not there is a fixed opinion in Simsbury as to whether or not an unprejudiced jury could be obtained in this county for the trial of these men?
A. I haven't found that to be true.

MR. BURKE: I think that's all.

MR. McDONOUGH: No questions.

MR. BILL: In other words, Mr. Curtiss, it is the general opinion in Simsbury that these men should receive a fair trial, is that correct?

THE WITNESS: Right.

MR. BILL: Thank you.

MR. BURKE: Is there any opinion in Simsbury as to whether or not they could receive a fair trial?

MR. BILL: You asked that question, Mr. Burke. Object to it.

THE WITNESS: I cannot answer that.

MR. BURKE: That's all.

PATRICK J. HOGAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Patrick J. Hogan.

Q. Where do you live? A. Bristol.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Hogan, do you hold an official position in Bristol? A. Yes.

Q. What is it? A. Domestic Relations Officer.

Q. Do you hold any position in any political party? A. Yes.

Q. What is it? A. Democratic Town Chairman.

Q. Do you belong to any civic or fraternal groups in Bristol? A. Yes.

Q. What are they? A. Knights of Columbus, co-chairman of the Industrial Community Chest Drive.

Q. In your official capacity do you have occasion to meet the citizens of Bristol? A. Yes, sir.

Q. About how many a day or a week do you meet? A. Well, on an average I'd say about twenty-five or thirty.

Q. Do you have occasion to meet citivens of Bristol at meetings of these civic and political groups that you belong to? A. Yes, sir.

Q. About how many do you meet a week, average? A. Well, it varies on the kind of meetings we have. Sometimes it's a hundred, sometimes fifty, sometimes twenty-five. It's pretty hard to give you an average.

Q. Do you feel that in these meetings and in your official position that you meet a cross-section of the citizenry of Bristol? A. Yes, sir.

Q. Now, Mr. Hogan, do you have an opportunity to overhear and partake in discussions with the citizens of Bristol on current events? A. Yes, sir.

Q. Have you overheard or participated in any discussions regarding the recent killings and the apprehension of Taborsky and Culombe? A. I haven't participated on too many occasions, but I overheard a lot of people discuss it.

Q. Would you say there is a fixed opinion in Bristol regarding the guilt or innocence of these men? A. From the conversation I have heard I would say yes.

Q. What is that opinion?

MR. BILL: Objection.

MR. BURKE: Claim it.

THE COURT: How many conversations would you say?

THE WITNESS: Well, it varies, Your Honor.

Q. All told how many conversations have you heard? A. Oh, approximately twenty-five.

Q. That is, conversations that you did not participate in? A. That's right.

Q. You merely overheard it? Oh, let him answer.

BY MR. BURKE:

Q. What is the opinion, Mr. Hogan? A. What was the question again?

(Question read by reporter)

A. Yes.

Q. What is the opinion? A. Guilty.

Q. Is there any fixed opinion, feeling, as you hear it or see it in Bristol, regarding prejudice or hostility against these men? A. No, I wouldn't say so.

Q. Is there any fixed opinion in Bristol or feeling that these men could or could not receive a fair trial in Hartford County? A. I would say that the opinion is that they could receive a fair trial in Hartford County.

Q. They could receive a fair trial? Did you in the past, since these killings have been going on, did you in your discussions find any opinion among the citizens of terror and apprehension from these men?

THE COURT: Just a minute. His discussion, as I understand it, have been limited to very few. Is that correct?

THE WITNESS: That's right, Your Honor.

MR. BURKE: He did testify, Your Honor, that in his discussions there were cross-sections of the citizens of Bristol.

THE COURT: I understand his testimony to be more

of conversations he overheard than those in which he himself participated. Is that correct?

THE WITNESS: That's right.

THE COURT: I don't believe from the few discussions he has had that he is able to answer the question.

Q. Are you able to answer it, Mr. Hogan?

A. What is the question, again, and I can tell you whether I can answer it or not?

(Last question read by Reporter)

THE COURT: His discussions have been so limited that I don't believe he is in a position to answer that question. Are you in a position to answer a question like that?

A. I'd say no, Your Honor.

Q. In your discussions and overhearing discussions of the cross-section of citizens of Bristol have you ascertained whether or not there is any opinion that these men should not receive a trial? A. Well, I'll say the opinion is -

MR. BILL: I object to that, Your Honor. It's the general opinion.

Q. What is it? A. The opinion is that they should receive a fair trial, Your Honor.

MR. BILL: Withdraw the objection.

MR. BURKE: I think that's all.

MR. BILL: No questions.

MR. McDONOUGH: No questions.

HENRY J. CARINI, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Henry J. Carini.

Q. Where do you live? A. Glastonbury.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Carini, what is your occupation or business? A. Building and real estate.

Q. Do you deal with the general public? A. Somewhat.

Q. And during the course of the week how many people or groups are you associated with, approximately? A. Oh, fifty or seventy-five.

Q. Are those people that you talk with? A. Generally.

Q. And are there other groups like restaurants where you go to where even though you don't talk with them you overhear discussions, general discussions? A. General discussions.

Q. Where would they be? Restaurants and lodge meetings and the like? A. That's right.

Q. Have you heard in the past few months discussions or participated in discussions with reference to Arthur Culombe and Joseph Taborsky, charged with murder? A. Very little.

Q. That is, you mean by that that you discussed it or you heard discussed? A. That's right.

Q. Both? A. Both.

Q. By "very little" what do you mean? Half a dozen times or more or less? A. Well, probably ten or a dozen times.

Q. And were these groups of people that you heard in the discussions, or one or two? A. Well, it's among groups, just a few people.

Q. By a few people what would you say? A. Oh, perhaps four or five.

Q. And you heard that about a dozen times, approximately? A. That's right.

Q. And from those discussions did you obtain an opinion as to whether or not there was a fixed opinion as to the guilt or innocence of the accused? A. I would say yes.

Q. And what was that opinion?

MR. BILL: Objection.

THE COURT: That's excluded. I don't believe he is in a position to give a general statement of opinion in the community on the basis of his limited experience.

MR. McDONOUGH: Exception.

THE COURT: Exception may be noted.

MR. McDONOUGH: That's all, Mr. Carini.

MR. BURKE: No questions.

THE COURT: That's all.

GEORGE M. GARRITY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. George M. Garrity.

Q. Where do you live? A. Kensington section of Berlin.

DIRECT EXAMINATION BY MR. BURKE:

Q. Do you hold any official or political position in the town of Berlin? A. I have a small part time job in the town.

Q. What is the position? A. Prosecutor of the Town Court. We hold a session one night a week.

Q. What business are you in? A. I am employed in an industrial firm, Fafnir Bearing, New Britain.

Q. In the course of your business - do you belong to any civic groups? A. None at all.

Q. Do you belong to any fraternal groups?
A. None at all.

THE COURT: No political?

THE WITNESS: Or political, I am on the Democratic Town Committee.

Q. Mr. Garrity, you are here in answer to a subpoena?
A. Right.

Q. You haven't talked to us about this matter at all?
A. No, I haven't talked to you.

Q. Mr. Garrity, in the course of your business, both official and in your occupation, do you have occasion to meet people in Berlin? A. Yes, I do.

Q. And about how many a day or average a week would you meet? A. Well, in my capacity as prosecutor we hold sessions one night a week and at that time I speak to very few people from Berlin. We get mostly people from other parts of the state.

Q. In your occupation - A. In my occupation, I work in New Britain and I come in contact with, in our office, probably fifty or sixty people. At different times of the week I talk to most of those people.

Q. And about luncheon meetings, going to restaurants, do you partake and overhear discussions by people?
A. On a few occasions I have.

Q. About how many people would that be on an average? A. During this period in question here, this eight or nine weeks, I'd say probably fifty or sixty people outside of business.

Q. Fifty or sixty people a week? A. No, I would say over a period of nine or ten weeks.

Q. You say you talk to about sixty people a day in your office? A. Yes, at different times.

Q. And you also talk to a few people in your position as prosecutor? A. I think on that one occasion a week, mostly out-of-town people, though.

Q. Have you had any occasion to talk to people in your activity politically? A. We have had one meeting and we did not discuss this case at all at that time. I may have at that. I did discuss this case with one of the victom's mother.

Q. Do you find in your discussion - you eat in New Britain, do you not? A. I eat in New Britain? I eat in New Britain once or twice a week. I go home to the neighboring town of Berlin most generally.

Q. Do you know from your discussions and overhearing discussions with people whether or not there is a fixed opinion of prejudice or hostility against these two men?
A. Well, I would say that they are in favor of a fair trial.

MR. BILL: "Yes" or "no".

A. I would say yes.

THE COURT: Your answer is that they are in favor of a fair trial?

THE WITNESS: May I ask to have the question read back, please?

THE COURT: Read the question.

(Question repeated by Reporter)

"Do you know from your discussions and overhearing discussions with people whether or not there is a fixed opinion of prejudice or hostility against these two men?"

A. I would say no.

Q. Do you know whether or not there is a fixed opinion from your overhearing discussions and partaking in them, as to whether or not there is a feeling of hostility and prejudice against these two men? A. I would say yes.

MR. BURKE: I think that's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Do you believe that from your knowledge of the community of Kensington and New Britain that a fair and impartial jury could be summoned to this Court?

MR. BURKE: Objection, Your Honor. I don't know how he would know whether or not there could be summoned here an impartial jury unless he took some kind of a survey among the people who are going to be on the panel or possibly might be on the panel.

THE COURT: All his testimony has been based just on general conversation and overhearing conversations and opinions generally.

MR. BURKE: That's true, but it has been on general subjects such as prejudice and hostility, and not on whether or not a fair jury could be impaneled.

THE COURT: Will you change the form of the question?

Q. In your opinion, Mr. Garrity, could these two men obtain a fair and impartial trial in this County?

MR. BURKE: That's objected to. It isn't his opinion we are asking, and he has objected many times to individual opinions.

THE COURT: You mean based upon what he has overheard?

MR. BILL: I'll rephrase the question, Your Honor.

In view of your discussions throughout the Town of Kensington and New Britain, Mr. Garrity, is there any general opinion in those towns concerning whether these men could get a fair trial in this County? A. I would draw from what I have heard that they would get a fair trial in this County, in this Court.

MR. BILL: Thank you, sir.

LLOYD JOHN JACQUES, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Lloyd John Jacques.

Q. Where do you live? A. Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. What is your business? A. Up until three weeks ago I operated two service stations in the Hartford area.

Q. How long had you been operating them?

A. One I had been operating over a year and one since last June which I sold three weeks ago.

Q. In the conduct of your business did you, since December 15th up until the present time, come in contact with the general public? A. Yes, I did.

Q. And to what extent? A. Well, in the work I spend ten or twelve hours a day taking care of both stations. I don't know, probably an average of thirty or forty people a day.

Q. How about fraternal organizations or luncheons?
A. Very few.

Q. These people that you have come in contact with, have they represented a cross section of the public?
A. Yes, I would say so.

Q. And have you heard discussions or participated in them from which you could say whether or not you have received or formed an opinion, a fixed opinion upon the part of those people? A. It would seem that way, yes.

Q. And what have you learned to be the fixed opinion from this group as to the guilt or innocence of the accused?

MR. WRIGHT: Objection.

BY THE COURT:

Q. How many people did you hear it discussed?
A. I couldn't tie that down to figures.

Q. Well, I'd like to have you give me your best estimate. You see thirty or forty people a day in your business?
A. That's right.

Q. How many of those thirty or forty have you heard discussing it? A. Probobly a dozen.

Q. You heard about a dozen people who have discussed that subject with you? A. Yes. You s[illegible] I - at that time I had approximately sixteen people in my employ and until the killers were apprehended I did have a problem getting the men to work nights.

Q. There was, of course, a fear? A. Yes.

Q. But this discussion among the public was limited to what, a dozen people, you said? A. Well, it would come to more than that over the period of time. It would probably come into forty people.

Q. During that whole period? A. Yes.

Q. Of how long a time? A. Oh, probably a couple or three weeks. You see, you come in contact with the general public, and then the people in my employ and the salesmen and so on and so forth.

THE COURT: Let him answer.

MR. WRIGHT: May I ask one more question, Your Honor?

MR. McDONOUGH: I'm not through.

MR. WRIGHT: No, on the question of this man's ability to answer this question.

BY MR. WRIGHT:

Q. You are testifying, Mr. Jacques, as of several weeks ago and not as of today, is that correct? A. Well, the reason I mentioned - I had two stations up until three weeks ago. I now operate one. That's the reason I mentioned that.

Q. And this opinion you are going to give us, what you received in the general discussions, is an opinion dating back three weeks? A. Yes, I would say so.

Q. Not today's opinion? A. No.

MR. WRIGHT: I claim that that is not a qualified opinion, Your Honor.

MR. McDONOUGH: I claim at any time during the time of the murder with which these people are charged up to the time of the present or two weeks ago -

THE COURT: Let him answer.

BY MR. McDONOUGH:

Q. Will you answer it? What is the opinion that you find existed as to the guilt or innocence of the accused?
A. That the accused are guilty.

Q. Did you find any hostility shown towards the accused? A. It would seem that way.

Q. Did you find whether or not there was a determination or an opinion as to the type of trial they should receive? A. No, I'm afraid we didn't go into that.

Q. Did you find an opinion as to whether or not they could obtain a fair trial? A. No.

MR. McDONOUGH: No questions.

MR. BURKE: No questions.

CROSS-EXAMINATION BY MR. WRIGHT:

Q. And you have been out of touch with these people in the last few weeks, is that correct? A. No. Some of the people are customers. Other are people that are still working for me.

Q. No discussion about a fair trial that you had with any one of them? A. No.

MR. WRIGHT: Thank you.

BY MR. McDONOUGH:

Q. What was it you said to the Court in answer to the Court's question about you were having trouble getting men to work nights? A. I had this station located in town in sort of a back area, over at Chapel and High Street and the men asked me for small arms for protection. I told them that rather than get small arms I would close the place, so we did close early for a short period.

Q. Have you found a general expression of fright or terror in this City?

MR. WRIGHT: It's a leading question. I object.

MR. McDONOUGH: It is leading. I'll withdraw it.

Q. What have you found the state of mind before the apprehension of the accused, the state of mind of these people that you testified to, the general state of mind before the apprehension but while the killings were going on with which they are now charged? A. The people in my employ were frightened. I was, also.

MR. McDONOUGH: That's all.

MR. WRIGHT: That's in the gasoline station business, you mean? A. That's right.

MR. WRIGHT: Nothing further.

HENRY J. ROGESKI, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Henry J. Rogeski.

Q. Where do you live? A. Hartford, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. What is your business or occupation? A. Deputy Sealer of Weights and Measures for Hartford County.

Q. Mr. Rogeski, have you - question withdrawn. In the course of your duties do you come in contact with a portion of the public of Hartford County? A. Mostly individuals in the grocery business, owners and managers of stores.

Q. In what towns? A. Towns north of Hartford. Probably seven or eight towns.

Q. And between December 15th and the time of the apprehension of the men charged with the crimes, these men

in this case, did you from your conversations with people that you came in contact with, receive an opinion as to the state of mind as to the public? A. Prior to the apprehension?

Q. Yes, in regard to the killings. Just "Yes" or "No". Did you? A. Yes.

Q. How many people - what was the average, say, weekly or daily that you came into contact with?

A. I would say ninety per cent.

Q. Ninety per cent of those people? A. Yes.

THE COURT: Ninety per cent of what?

A. Of the people I come in contact with.

THE COURT: What he wants to know is how many?

A. Oh, I would say perhaps a dozen or so a day.

Q. And that would be every day during the course of your week? A. Before the apprehension, during this crime wave.

Q. About a dozen or so a day? Would you say fifty a week? A. I would safely say so.

Q. What was that opinion that you found?

MR. WRIGHT: Objection.

MR. McDONOUGH: Claim it.

THE COURT: The opinion before apprehension?

MR. McDONOUGH: Yes, and while the killings were going on. The purpose, Your Honor, is to show a state of terror in the County.

THE COURT: I don't think that is material, but if you think it is I'll let him answer.

MR. McDONOUGH: Yes, Your Honor.

A. I found in the area north of Hartford in these little towns like South Windsor and East Windsor and Windsorville and being new on the job I would walk in and the proprietor or the manager would look a little startled, a little frightened in appearance, because they didn't know who I was. I could relate two instances that stand out in my mind.

MR. WRIGHT: Well, I object.

MR. McDONOUGH: I don't think we want that.

Q. But answer if you can bring it right down without specific instances. What was the ninety per cent that you found, the state of mind, of terror that they were in? "Yes" or "No". A. Yes.

Q. Now, since the apprehension of these accused and their indictment for first degree murder, this same group of people, have you received from them so that you have an opinion as to their state of mind as to the guilt or innocence of the accused? Answer "Yes" or "No". Did you find an opinion existed? A. A very limited one.

Q. By limited, what do you mean? A. Oh, I'd say probably a third of the calls that I make, a third of the fifty or so I visited during the week.

Q. They expressed an opinion, did they, as to the guilt or innocence? A. Yes.

Q. What was that opinion?

MR. WRIGHT: Objection.

THE COURT: I think that is too limited to get a cross-section of opinion.

Q. About how large a portion of that group expressed an opinion, if they did, as to a trial to be given to these accused? A. I don't recall any.

Q. There was no opinion on that, that you recall? A. No.

MR. McDONOUGH: My I have an exception to Your Honor's exclusion of the question, the last one?

THE COURT: I'll withdraw my ruling. You may ask the question.

MR. McDONOUGH: Thank you. May the question before this one be read, Your Honor?

Q. (Repeated by the Reporter) "They expressed an opinion, did they, as to the guilt or innocence?" A. "Yes." "What was that opinion?"

Q. What was that opinion? A. It was the average rational opinion that something should be done and they should be given a speedy trial, and things to that effect.

Q. Did they express an opinion as to the guilt or innocence? A. Truthfully I cannot say.

MR. McDONOUGH: That's all.

MR. BURKE: No questions.

MR. WRIGHT: No questions.

JAMES F. HUGHES, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. James F. Hughes.

Q. Where do you live? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Hughes, could you tell me what business you are in? A. Gasoline and garage business.

Q. Where is your station located? A. Silas Deane Highway and Jordan Lane.

Q. In the course of your business do you have occasion to talk to the general public each day? A. Yes.

Q. About how many people do you talk to or hear discussions? A. I can't answer.

Q. What is your best estimate? A. We sell six hundred and fifty thousand gallons of gas a year.

Q. Would it be more than ten or twenty a day? A. It could be twenty.

Q. Do you belong to any fraternal groups in Wethersfield? A. No.

Q. Do you belong to any civic groups down there? A. The Wethersfield Businessmen.

Q. Have you had meetings recently that you attended? A. No, I never attended a meeting.

Q. How about luncheons? Do you have occasion to meet people at luncheons or overhear discussions at restaurants of people in that area? A. Well, there's a Diner down the road. You hear a jam session down there.

Q. About how many people would you meet through that medium? A. I don't bother with too many in there.

Q. Do you attend any public functions in Wethersfield? A. Democratic Town Committee Meetings or something like that.

Q. Have they had any meetings recently? A. Yes, but I haven't attended them.

Q. Would you be in a position to know whether or not there was a fixed opinion in Wethersfield regarding the guilt or innocence of these two men in this case? A. You mean amongst the customers?

Q. Yes. A. Where we are located we probably have twenty customers that are prison guards. In fact, I think we

have the best people in Wethersfield for customers, and amongst the guards they felt that he never should have been released.

THE COURT: They wouldn't be likely to be jurors, would they?

A. Oh, no.

Q. What about the other people, the better customers from Wethersfield, as you expressed it? A. Well, they -

THE COURT: I haven't gotten any idea from him that he discussed it with very many customers. If a person drives up to get gas from you do you stop to discuss this question with him?

A. Well, Judge, I believe the first holdup was at the Rocky Hill-Wethersfield Town line, a package store, of this whole deal. That night I met the Chief of Police at the Wethersfield Country Club -

THE COURT: We are trying to get from you an answer as to what the feeling is in Wethersfield. Are you in a position to give any idea of the general feeling there from your observation or discussions or overhearing discussions?

A. In regard to them having a trial?

THE COURT: In regards to the two men. Are you in a position to give an opinion?

A. Yes, I think so.

Q. What is the opinion?

MR. WRIGHT: Objection.

THE COURT: Let him give it. It is obviously quite limited. Go ahead.

A. I have never met anyone who has referred to a trial in Hartford County as a kangaroo trial.

THE COURT: As a what?

A. Kangaroo trial.

THE COURT: Kangaroo Trial?

A. They are all on the up and up.

THE COURT: You've got me. What is a kangaroo trial?

A. Well, it's one that isn't quite -

Q. That's language you hear from the prison guards, isn't it? A As a prison guard I heard that.

THE COURT: Do you mean by that that there isn't anybody that said they shouldn't have a fair trial?

A. No. In my three years as a prison guard I have never heard anyone refer that they had a kangaroo trial, meaning one that isn't on the up and up.

THE COURT: You mean they have confidence in the Court?

A. That's right, and I have confidence in the jury system.

BY MR. BURKE:

Q. I want to know what the general opinion is, as you heard it discussed by your customers? A. That it should be a short trial.

Q. Was there any feeling of prejudice or hostility against these two men expressed by your customers?
A. Against these two men?

Q. Yes, these two, after their apprehension?
A. No.

Q. They weren't hostile towards them at all.
A. No.

MR. BURKE: I think that's all.

MR. McDONOUGH: By a short trial was it understood to mean a quick trial and get it over with?

MR. WRIGHT: Objection.

MR. McDONOUGH: Was that the opinion?

THE COURT: That certainly is a suggestion as to how the answer should be, isn't it?

MR. McDONOUGH: I'm sorry.

THE COURT: Isn't that a suggestion as to what you want him to say?

MR. McDONOUGH: Well, yes.

BY MR. McDONOUGH:

Q. Wasn't the opinion that you obtained that they, in a short trial, get all their legal rights and everything available to them that could be made, say by lawyers?

A. That's right.

THE COURT: Is that all?

MR. McDONOUGH: That's all.

MR. WRIGHT: In other words, the general opinion in Wethersfield is that these men could get a perfectly fair trial here in Hartford County?

A. That's right.

MR. WRIGHT: That's all.

BY MR. McDONOUGH:

Q. Do you know what is meant by that expression, a short trial? A. That there was nothing to the case.

Q. That there was nothing to the case? A. Yes.

Q. The general opinion was, do you mean, that they are guilty? A. I wouldn't say that, but to go through the case there wasn't too much to it.

Q. Do you mean they should get a shoi trial or it would be a short trial? A. It would be a shor. trial.

Q. Would be, not should be? A. Yes.

MR. WRIGHT: Do I understand by that, that they had in mind a speedy trial?

MR. BURKE: I'll object to that as characterizing the testimony of the witness.

MR. WRIGHT: This is cross-examination.

THE COURT: Go ohead. Answer the question.

THE WITNESS: I didn't get the question.

THE COURT: Read the question.

(Last question read by Reporter)

A. I'd say that. I mean, boom, boom and get it over with.

MR. BURKE: Is it the opinion down there, what they mean is give them a quick trial before they hang them?

MR. WRIGHT: I object.

THE COURT: Well, let's not go into that.

MR. BURKE: That's all.

BY MR. McDONOUGH:

Q. What do you mean by "boom, boom and get it over with"? A Well, there's things that I could say that have nothing to do with this.

Q. Now, I'd like to know?

MR WRIGHT: I object.

MR. McDONOUGH: This is important.

MR. WRIGHT: This is personal opinion and not the opinion of the public.

MR. McDONOUGH: "Boom, boom and get it over with. There's things I can say," -

MR. WRIGHT: Object, unless it is public opinion.

THE COURT: The question is objected to. It is excluded.

MR. McDONOUGH: May I be heard, the reasons why, Your Honor?

THE COURT: Ask him another question?

Q. From what you have heard in discussions, not your opinion, Mr. Hughes -

THE COURT: Bear in mind, of course, he is your witness.

MR. McDONOUGH: Yes, Your Honor.

Q. Is it the opinion that they can get a fair trial but it should be as short as possible? A. Yes.

MR. McDONOUGH: That's all.

MR. WRIGHT: No questions.

SAMUEL B. LAWRENCE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Samuel B. Lawrence.

Q. Where do you live? A. East Winds r..

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Lawrence, what is your business or occupation? A. I am a tobacco grower.

Q. Do you hold any official position in the Town of East Windsor? A. I do.

Q. What is it, please? A. Member of the Zoning Board of Appeals.

Q. Do you belong to any civic or fraternal or political groups in East Windsor? A. I do.

Q. What are they? A. Member of the Lion's Club, American Legion, Masons. As far as - what was the second part of your question?

Q. Political groups? A. Member of the Democratic Town Committee.

Q. Mr. Lawrence, in the course of your business and also in your activities in civic and fraternal and political groups do you have occasion to meet the public of East Windsor? A. I do.

Q. About how many people, average a week, would you meet? A. Perhaps thirty.

Q. And do you have an opportunity to overhear discussions by people in the Town of East Windsor? A. I do.

Q. About how many people are there in the Town of East Windsor? A. Approximately six thousand.

Q. Now, do you know or can you tell us whether or not there exists in East Windsor a fixed opinion as to the guilt or innocence of Taborsky and Culombe? A. I could not say that.

Q. Do you know whether or not there exists in East Windsor, from overhearing discussions or partaking in

them, whether or not there is a fixed opinion as to prejudice or hostility against these men? A. I do not think there is any prejudice.

Q. You don't think so? A. No.

MR. BURKE: I think that's all.

MR. McDONOUGH: No questions.

MR. WRIGHT: No questions.

CHARGE OF HON. JAMES C. SHANNON, JUDGE TO THE JURY

THE COURT: Ladies and gentlemen, your request for pencil and paper was denied by me because you are not permitted to make notes of the charge, except mental notes, which I trust you will make. Can you all hear me?

In the performance of our duties you, as the jury, and I, as the Court, have separate functions. It is my duty to state the rules of the law involved in the decision in this case, while it is your duty to find the facts. In so far as I do state to you the law, what I say to you is binding upon you, and you will understand that if I differ from the claims made by counsel in respect to the law you will dismiss from your minds what they have said to you.

The performance of my duty requires me to state the rules of law lying at the foundation of the various contentions of the parties. These are the rules which, when applied to the facts you find, will lead to your ultimate verdict. I may also point out to you the legal effect of certain facts or certain evidence, or I may suggest to you certain considerations which you should bear in mind in considering the evidence. Where I assume to do either of these things you will carefully heed what I say. It is my right, also to make comments to you as to the weight of the evidence or as to the propriety or lack of propriety of your finding certain facts from the evidence. Where I undertake to make such comments they are merely suggestive to you for you to approve or disapprove in the exercise of your own sound judgment.

My first concern with the facts in this case is to refer to them in order to make clear to you the application of the rules of law to this particular case. If, therefore, I refer to certain evidence or certain facts and not to others, you

are not to infer that I mean thereby particularly to emphasize these certain facts, or to limit your consideration to them. If I should overlook any evidence under consideration in a particular phase of the case, you will supply that from your own recollection. If I incorrectly state any evidence, you will correct my error. For, after all, it is your function and your duty to weigh the evidence offered, make the proper deductions or inferences from that evidence, and thus determine the facts. And what counsel say to you or have said, or what I say to you as to the facts, except as I have already pointed out, should have weight with you only so far as you approve it in your own minds.

It is the duty of the Court to state to you the law in pursuance of which the guilt or innocence of the accused must be determined by you, and it is the exclusive province of the jury to deal with the evidence, determine the facts, and reach the final conclusion upon them as to the guilt or innocence of these accused. In dealing with these facts and reaching this conclusion the jury must exercise this privilege and perform this duty with strict regard to and respect for the law applicable to the case as it is declared to you by the Court.

The Court alone is responsible for the statement of the law. The jury is responsible for the determination of the facts, and the application of the law as stated by the Court, to these facts found by the jury, determines the verdict to be rendered by you.

The burden of proving the guilt of the accused is upon the State of Connecticut. It is not enough for the State to make out a case of probable guilt and call upon the accused to disprove it. This means that the accused is not required to prove his or their innocence. The State must affirmatively prove his or their guilt, and it must prove it beyond a reasonable doubt. Such a doubt is one that is based upon reason

and grows out of the evidence and is reasonable in the light of the evidence and is honestly entertained by the juror after a fair comparison and careful examination of the entire evidence in the case. A reasonable doubt is not a doubt raised by one who questions for the sake of raising a doubt. It is not a surmise, guess, conjecture or mere fanciful or imaginary doubt. It is not a captious doubt nor a doubt offered by the ingenuity of counselor or of jurors and unwarranted by the evidence, nor is it a doubt founded upon sympathy for the accused or those connected with him or them.

The law does not require absolute certainty to authorize a conviction, for that is practically unattainable. The law does require that the guilt be established as charged beyond a reasonable doubt, and that is one that is founded upon the evidence, one which you, as reasonably prudent men and women would be willing to act upon in the more weighty and important matters relating to your own affairs.

In order to establish the guilt of the accused beyond a reasonable doubt the proof ought to exclude every reasonable presumption or hypothesis of innocence in the mind of each juror, and proof beyond a reasonable doubt is such proof as excludes every reasonable hypothesis of innocence. The duty of the State to satisfy you by this degree of proof - that is proof beyond a reasonable doubt - extends to all the essential elements of the crimes for which conviction is sought or had, and you should not find the accused guilty unless all the essential elements have been established beyond a reasonable doubt.

It is the duty of the State's Attorney to offer every available witness whose testimony would aid the Court in arriving at the truth of the matter before you. In determining whether evidence established guilt beyond a reasonable doubt, any conclusion reasonably to be drawn from the evidence which is consistent with the innocence of the ac-

cused, must prevail. It is the law of this state that a man shall not be convicted upon mere suspicion. The State must prove guilt beyond a reasonable doubt - that is, by such proof as precludes every reasonable hypothesis except that which it tends to support. It is proof wholly consistent with the defendant's guilt and inconsistent with any other rational conclusion.

This requirement of the law, that in order to convict an accused the State must satisfy you beyond a reasonable doubt of his or their guilt, does not mean that proof must be beyond a possible doubt, and a possible supposition of innocence is a far different thing from a reasonable hypothesis.

In this case, as in all such cases, the accused are presumed to be innocent until he or they are proven guilty. That means that at the moment when the accused were presented for trial here before you, nothing which you knew about his or their past or might surmise or guess about his or their past should be considered by you at all. Their slates were wiped clean at that moment. They stood before you free from guilt, bias, prejudice or burden arising from his or their position as accused. In so far as you are concerned, they were then innocent and they continue to be innocent until such time as the evidence and matters produced here in the orderly conduct of this case satisfy you that he or they are guilty. Up to the moment when you are so satisfied from what has taken place here in court before you that he or they are guilty, so far as you are concerned he or they are innocent of the crimes with which they are charged. This presumption requires that if a piece of evidence offered is capable of two reasonable constructions, one of which is consistent with innocence, it must be given that construction. If you entertain a reasonable doubt between a greater and a lesser crime, the accused should have the benefit of that doubt and your verdict should be for the lesser crime.

The fact that the accused have been presented here for trial under indictments by the grand jury is without bearing or significance in your deliberations or your consideration of the question of his or their guilt or innocence of any crime within the reach of the State's charge. The work of the grand jury in these matters is merely to carry out the necessary stages of preliminary investigation under the law. The actions of the grand jury are without consequence here for any purpose of the evidence except as expressly defining the crimes charged and the precise manner of their accomplishment, and in so limiting the scope of your inquiry. It is, of course, to be accorded no weight or significance by you on the vital question of the guilt or innocence of the accused.

The credibility of witnesses and the weight to be given to their testimony are matters which it is peculiarly your function to determine. However, I may properly make certain suggestions to you. No fact is, of course, to be determined merely by the number of witnesses testifying for or against a given proposition. It is quality, not quantity, of testimony which controls. In weighing the testimony of a witness you should consider his or her appearance on the stand, you should try to size him or her up, you should have in mind all those little circumstances which point to truthfulness or untruthfulness. You should consider any possible bias or prejudice he or she may have, either for or against the State or the accused, his or her interest, or lack of interest, of whatever sort, in the outcome of the trial, his or her ability to observe the facts correctly and to remember and relate them truthfully and accurately. You should test the evidence a witness gives you by your own knowledge of human nature and of the motives which influence and control human action. If any facts are admitted or otherwise proved to you you may well bring them into relation with the testimony and see if they fit together with it. In short, you are to bring to bear upon it the same con-

siderations and use the same sound judgment you apply to the questions of truth and veracity which are daily presenting themselves to you for your decision in every day life.

You will recall that the State has offered in both cases, in evidence, testimony as to statements made out of court by the accused, which it claims were in the nature of a confession or admission by him or them tending to show his or their guilt of the crime charged, and that you were excused while I considered the question of its admissibility. That I did hold the testimony to be admissible, you know. Let me now caution you that this ruling on my part meant no more than that in the performance of my duty I concluded that the circumstances surrounding the making of these statements were such that you should have them before you for your consideration, that my ruling is not to be taken by you as giving to those statements any more weight in your deliberations than you conclude that they should have.

I shall also say this to you: Such statements by an accused person or persons are not in themselves sufficient to prove the fact that the crimes charged against the accused were in fact committed by someone, the accused or others. Your first inquiry must be, was such a crime committed? Before you can determine that to be so, you must conclude that there was offered before you material and substantial evidence, apart from the statements of the accused, that the crimes charged were committed. Not that this evidence must in itself establish that fact beyond a reasonable doubt, but it must substantially corroborate the admissions of the accused. Having concluded that there is such evidence, you will then determine whether from it and from the admissions of the accused, taken together, you are satisfied beyond a reasonable doubt that the crimes charged were in fact committed by them.

The confessions of the accused which have been admitted as evidence are to be considered by you in connection

with all the other evidence in the case. Made as it was out of court, it is not like the sworn testimony offered before you. It is to be considered by you as a declaration inconsistent with the accuseds' plea of not guilty. It may be, however, if you consider that it or any one of them were made by the accused, evidence, circumstantial in its nature, of the truth of the statements made in it. It is for you to determine what weight is to be given to it, and in that connection you should consider the circumstances under which it was made as they appear in the evidence before you.

If you find that the confession of the accused, Joseph Taborsky, was obtained by psychological pressure, coercion by means, or by the use of duress, or by any other means which destroyed or impaired his decision to make such confession out of reasoned choice, you shall reject his confession.

You are to consider whether or not in your opinion these statements were made voluntarily and were not obtained by violence or because of fear or duress so that they are likely to be false, and if you so consider that they were made voluntarily you may consider what weight should be given to them in accordance with the instructions which I have already given you.

An accused person is not obliged to take the witness stand in his own behalf. On the other hand, he has a perfect right to do so, as the defendant, Arthur Culombe, has done. In weighing the testimony he has given you should apply the same principles by which the testimony of other witnesses are tested, and that necessarily involves a consideration of interest in the case. You will consider the importance to him of the outcome of the trial and his motive on that account for not telling the truth. An accused person, having taken the witness stand, stands before you just like any other witness and is entitled to the same consideration

and must have his testimony measured in the same way as any other witness, including, however, his interest in the verdict that you are to render.

As I just said, an accused person is under no obligation to become a witness in his own behalf. It is for the State to prove him guilty, and no burden rests upon him to prove his innocence. Until, therefore, you have reached the conclusion that the evidence offered by the State has given rise to such a strong probability of his guilt that a denial or explanation upon his part is reasonably called for, you are not to consider his failure to testify as any evidence of his guilt. If, however, upon the evidence offered by the State there is such a probability, his failure to testify becomes a fact which you are entitled to consider. To that fact you should give such weight as you deem the circumstances justify. You may consider that he has sat throughout the trial and has listened to the evidence tending to incriminate him; you may consider the nature of that evidence which has been offered, and any circumstances appearing in the course of the proceedings which you deem might justify his conduct. Whether you shall draw from his failure to testify an inference pointing to his guilt and what weight you should give such an inference is for you to decide.

The case of the State rests in part upon what is commonly known as circumstantial evidence. It is your duty to consider the evidence and all the evidence in the case, whether direct or circumstantial. It will not do to take your individual view upon the consideration to be accorded circumstantial evidence, no matter what you may think the range of your knowledge or the depth of your wisdom. Centuries of experience ripened into law have determined for you the rules which guide and govern the consideration which you should accord to all the evidence in the case, whether it be what is popularly known as direct evidence or circumstantial evidence.

Direct evidence is the testimony given by a witness who says that he saw and heard, or that there came within the field of his own senses certain facts which he relates to you. This is the kind of evidence with which you are most familiar. Circumstantial evidence of an event is the testimony of witnesses to the existence of certain facts or the happening of certain events from which the jury may logically conclude that the event in question should happen. Because of the fact that crimes are often commited in secret it often happens that there are no eye witnesses to the crime itself and therefore there is no direct evidence that the crime has been committed by the accused. For that reason it often appears that the commission of a crime by a certain accused can be proved, if it is going to be proven at all, only by circumstantial evidence. The only practical difference between direct and circumstantial evidence is that when you have direct evidence of the commission of a crime the only thing the jury has to do is pass upon the credibility of that direct testimony, whereas with circumstantial evidence the jury has first to determine the credibility of the witness and then decide what, of the facts testified, did in fact exist, and then they have to decide whether the happening of these events or the existence of these facts forces them logically to the conclusion that other facts existed and other facts occurred and ultimately that the crime was committed by the accused.

You should approach the consideration of these cases without any prejudice for or against circumstantial evidence. Treat all the evidence fairly. Proof by circumstantial evidence may be as conclusive as would be the testimony of witnesses speaking on the basis of their own observation. Of course, in passing upon the guilt of accused persons on the basis of circumstantial evidence you must be satisfied beyond a reasonable doubt, first, that certain facts or circumstances did exist, and secondly, that the existence of those facts or circumstances do, beyond a reasonable doubt,

lead you to the conclusion that the crimes were committed by the accused. Unless the existence of those facts or circumstances compel you, as reasonable men and women, to only the one conclusion, namely, that the accused are guilty, then, of course, you would not be justified in finding them guilty. If the existence of all the facts or circumstances which you believe existed can be explained reasonably on some basis other than that the accused committed the crimes charged, then the State has not made out a case. But if, in any case, you find certain facts to have been proved, and if the only reasonable inference to be drawn from the existence of those facts is that the accused committed the crimes charged, then it is your duty to draw that inference and find them guilty. And, of course, where there are in evidence several separate facts or circumstances, each tending to prove the guilt of the accused, the question for you to decide is not as to whether each fact or circumstance taken separately from the rest convinces you beyond a reasonable doubt of the guilt of the accused, but rather whether all of the facts and all the circumstances taken together are sufficient to satisfy you beyond a reasonable doubt that the accused are guilty.

The accused are on trial here under an indictment charging them with the crime of murder in the first degree. The indictments referred to read as follows - and I will read to you the indictment in the case of *State vs. Arthur Culombe*, first, which is No. 21,666:

"FIRST COUNT: The grand jurors - " I should read the top, I suppose.

"To The Honorable Superior Court, Holden at Hartford, Within and for the County of Hartford, State of Connecticut, on the First Tuesday of March, A.D. 1957, and Now in Session:

"FIRST COUNT:

"The Grand Jurors within and for said County accuse Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery.

"SECOND COUNT:

"And the said Grand Jurors further accuse the said Arthur Culombe, alias Arthur Culombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Culombe, murdered one Daniel J. Janowski, and that said murder was committed in perpetrating a robbery."

And now I will read you the indictment in the case of *State vs. Joseph L. Taborsky*, which is No. 21,665:

"To The Honorable Superior Court, Holden at Hartford, Within and for the County of Hartford, State of Connecticut, on the First Tuesday of March, A.D. 1957, and Now in Session:

"FIRST COUNT:

"The Grand Jurors within and for said County accuse Joseph L. Taborsky, of Brooklyn, New York, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Joseph L Taborsky

murdered one Daniel J. Janowski and that said murder was committed in perpetrating a robbery.

"SECOND COUNT:

"And the said Grand Jurors further accuse the said Joseph L. Taborsky, of Brooklyn, New York, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Joseph L. Taborsky murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery."

As you retire to your deliberations upon these cases you will have these indictments with you in the jury room.

Before considering in detail the issues presently involved, certain elements of the law must first be considered. Homicide is the killing of one human being by another. The law regards homicide, under certain circumstances, as justifiable or excusable and therefore not criminal, as where one kills another in the execution of the laws, or in the prevention of a felony, or in necessary self defense. If one kill another by accident in the performance of a lawful act, without motive or intent to cause injury the killing is recognized as excusable and not criminal.

Criminal homicide, on the other hand, is of two kinds or classes, murder and manslaughter. Murder is the unlawful killing of a human being, with malice aforethought, either express or implied. Manslaughter, on the other hand, is the unlawful killing of a human being without malice, either express or implied. These two classes of criminal homicide embrace all cases of unlawful killing of one person by another. Each of these crimes contains the same elements of unlawful killing. They differ in the fact that in murder, malice is present, while in manslaughter there is an absence of malice.

The first element, namely, the killing of one human being by another, lies at the basis of all murder. You must find that to have occurred as a fact. In other words, you must find that these accused killed the persons named in these indictments in order to convict them of the crime of murder. That is the first thing that must be shown. Of course, this is also true in order to convict them of the crime of manslaughter. If there was a killing or killings you must next consider and decide whether or not it was unlawful. The law, as already indicated, does not regard all homicide as criminal. A homicide is criminal or unlawful when the act or conduct proceeds from an unlawful intent, and such intent exists in every case where the homicide is committed without legal excuse or justification, or whether it is the involuntary result of some unlawful act or conduct. The element of unlawful killing is a part of the crime of manslaughter as well as a part of the crime of murder.

You come then to the next or third element of the crime of murder, namely, malice. In popular speech, of course, malice means hatred, ill will, animosity or malevolence existing in the mind of one person toward another. In the law of criminal homicide, however, malice not only embraces such a state of mind but is much broader and includes an evil design in general, a wicked and corrupt motive, and an intent to do evil which proves fatal. Malice includes all those states of mind in which a homicide is committed without legal justification, extenuation or excuse. It is an evil design in general where the circumstances manifest a wicked, depraved, wanton and maligant spirit. In the case of unlawful homicide, if no specific intent to kill exists and no specific feeling of hatred or ill will exists, still, if the facts and circumstances attending the killing are the ordinary symptoms of a wicked and depraved spirit the malice may be presumed.

The law presumes malice from the unlawful use of a deadly weapon. In the case of an unlawful homicide by a deadly weapon used in perpetrating a robbery, the law implies malice. Malice, then, may be either express or implied. There is express malice where there is a specific and deliberate intent and purpose to unlawfully kill, arising out of ill will, hatered or animosity, expressed by the slayer for his or their victim. On the other hand, there may be, as we have said, no actual malice in the sense of personal hatred, ill will or animosity toward the victim, and no specific intent formed by the slayers to kill them, and yet the circumstances of the killings may be such that the law will infer or imply malice therefrom.

I have explained to you under what circumstances and conditions this inference is or may be drawn. Such an inference, when drawn, constitutes implied malice. If malice, either express or implied, is present, then the crime is murder in some degree. Malice may be presumed from the circumstances of atrocity, barbarism or cruelty attending the killing, or from the unlawful use of a deadly weapon. In general, it may be said that where an unlawful homicide is shown to be committed by an accused person and no circumstances of mitigation, extenuation or excuse appear, malice of the slayer will be presumed.

A few illustrations may be of help to you at this point. Take the case of a man who hates another man and, desiring revenge, seeks him out and intentionally and unlawfully kills him. Here, of course, the assailant is said to have killed his victim with malice and hatred, and the intention to unlawfully kill constitutes malice. In such a case the legal and popular meanings of the word "malice" substantially coincide.

Suppose, however, there is no hatred or ill will. The same man, without lawful excuse, intentionally fires a loaded rifle into a crowd, aiming at no one in particular and

having no one in mind who he desires to hurt, hating no one in this crowd. Nevertheless, he kills someone in the crowd. Here again, he is said to have slain his victim with malice. The recklessness of his act under these circumstances constitutes malice without any specific intent to harm.

Take still another case. "A" intending to kill "B", whom he hates, by mistake kills "C", who is his best friend. Here he did not intend to kill his best friend. He did not hate him. He loved him. Yet the law says that he killed his friend with malice because it was as a result of his evil design to kill "B" that he actually killed his friend "C". This element of malice about which I have been speaking distinguishes the crime of murder from the lesser crime of homicide called manslaughter.

Manslaughter is an unlawful homicide without malice. Manslaughter may be either voluntary or involuntary. Involuntary manslaughter is an unlawful homicide committed in the heat of sudden passion, caused by provocation. This last example simply means a killing that comes about when a man suffers from a transport of passion whereby, through some cause deemed adequate in the eyes of the law, that is a provocation such as is calculated to give rise to irresistible passion in the mind of a reasonable person, is caught up out of himself and kills before his will and judgment have time to assert themselves. Such a killing the law holds to be without malice.

While it is for you to determine, ladies and gentlemen, whether or not the accused in this case are guilty of this or any other offense included in the indictment - and I am now referring to the crime of manslaughter - and while it is for you to recall the evidence and decide what has been proved, I recall no evidence or claim of any killing which would amount to manslaughter in this case. I mentioned it, however, because manslaughter is within the crimes

encompassed within the field of this indictment or these indictments. You will understand that this is simply my view of the evidence and it is not binding upon you. You will determine the facts and that determination will be controlling.

Now, if you conclude that there have been unlawful killings with no circumstances indicating excuse or justification and no circumstances indicating that they were the result of a transport of passion, then the law is that the killings were with malice. If there exists in the evidence no proof of malice, either expressed or implied, then the crimes must be manslaughter at the most. If, however, there is malice, expressed or implied, then the crime is murder; that is to say, murder in the first or second degree.

It is necessary now to explain to you the distinction between murder in the first degree and murder in the second degree. An unlawful homicide without extenuating circumstances reducing it to manslaughter, would be murder in the second degree unless the murder falls within one of the classes designated by the statutes of our State as murder in the first degree. Here I shall read to you the provisions of our statute concerning the crime of murder:

"All murder perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or committed in perpetrating, or in attempting to perpetrate, any arson, rape, robbery or burglary, or injury to any person or property by means of any explosive compound, shall be murder in the first degree; and all other kinds or murder shall be murder in the second degree; and the degree of the crime charged shall be alleged in the indictment; but the jury before which any person indicted for murder shall be tried may find him guilty of homicide in less degree than that charged."

Proof of second degree murder, then, requires proof of the elements that I have already indicated, namely, the killing, the unlawfulness of the killing and malice, either expressed or implied. If, in addition to those elements, the State also proves that the murder was committed in the perpetration of a robbery, as alleged in this indictment, it becomes, by force of law, murder in the first degree. The fact that a murder is committed in the commission of a robbery makes it murder in the first degree by statutory definition. A further specific finding that it was done wilfully, deliberately, and with premeditation is not required under the law.

The reason for this provision in our law is that crimes against a person, like robbery, rape, arson, and burglary are, in common experience, likely to involve danger to life in the event of resistance by the victim or the attempt of the perpetrator to make good his escape and to conceal his identity. It is a probable and natural and reasonable consequence of the attempt to commit such a crime that a human life will be destroyed. The commission of robbery is a crime that may cause the death of an innocent person. So again I say, that if the murders in this case, if you find there were murders, were committed in the perpetration of a robbery, then it constitutes murder in the first degree.

It is now necessary to understand the elements of the crime of robbery. Robbery is the felonious taking of money or goods to any value from the person of another or in his presence against his will, by violence or putting in fear. The word "feloniously" means having the quality of a felon, malignant, malicious, villainous. In a legal sense, it means an intent to commit a crime. The taking must be either from the owner's person, as where money is forcibly taken from his pocket or in his actual presence, as where he is, by intimidation or force, compelled to open his safe or cash register. Some violence or intimidation must be used in the

taking of property to constitute the crime of robbery. The value of the property does not affect the crime.

Here, you will recall, it is the claim of the State that the accused were committing a robbery in New Britain at the time, place and date alleged in the indictment, and that during the commission of that robbery, the two deceased named in the indictment were murdered. If you find that the State has proven beyond a reasonable doubt that the two deceased named in these indictments were murdered, and that they were at the time in question committing a robbery, then they are guilty of murder in the first degree.

If you find that they were, in fact, perpetrating a robbery; if you find that all of the elements and essentials of the crime of robbery have been proved; and if you further find that these accused murdered these deceased named in the indictment while they were perpertating this robbery, then it is murder in the first degree.

Perhaps I should summarize for you at this point. Murder in general, is the unlawful killing by a person of sound reason and judgment of another person, then in being and in the pace, with malice. This malice may be either expressed or implied. It may be implied from evil design to commit a robbery or some other circumstance. Manslaughter, on the other hand, is distinguished from murder by the absence of the element of malice. Murder committed in the perpetration of a robbery, under our law, is murder in the first degree.

After specifying certain other classes of first degree murder, the statute then states that all other kinds of murder shall be murder in the second degree. In order to warrant a conviction of murder in the second degree against these accused, the State must establish that the person named in the indictments are dead and that the accused unlaw-

fully killed them, and finally, that in the killing the accused acted with malice. If any one of the propositions has not been established, you cannot convict the accused, even of the crime of second degree murder. The distinguishing element between first degree and second degree murder lies in these cases in the facts specifically alleged in these indictments, namely, that these accused killed while they were perpetrating a robbery. If you find, in fact, they were not perpetrating a robbery, then the cases are cases of second degree murder, providing you find all of the elements named, including that of malice.

Proof of second degree murder does not require proof of a specific intent to kill the deceased. The existence of malice, express or implied, if you find that to be proved, makes the unlawful killing murder in the second degree.

Now, there is another important statutory provision affecting conviction of murder in the first degree. Our statute provides that no person shall be convicted of any crime punishable by death without the testimony of at least two witnesses, or that which is equivalent thereto. As murder in the first degree may be punishable by death, this provision is applicable to conviction for that crime. Murder in the second degree and manslaughter are punishable only by fine and imprisonment. The statute therefore has no reference to conviction for these offenses. In other words, this statute applies only in cases of first degree murder.

You will observe that the statute does not require the testimony of two witnesses. It is enough if the testimony is, in the minds of the jury, equivalent to that of two witnesses to every important fact. If there are two or more witnesses, each testifying a different part of the same transaction or to different circumstances concerning the case tending directly to show the guilt of the party accused, it may be regarded as sufficient compliance with the statute, although

there may not be two witnesses to any one fact or circumstance in the case. Of course, you are to judge and decide what constitutes such evidence of two witnesses or its equivalent, whether the evidence be what is called direct or circumstantial, or whether it be made up of both classes. However, it is necessary, as I pointed out to you, that in every case of first degree murder the evidence must show that the crime was committed by the testimony of at least two witnesses or what is equivalent thereto.

Now, this statute simply means that the proof of all the essential elements of a capital crime, each of which must be proved beyond a reasonable doubt, may not depend upon the testimony of just one witness.

Now, if you were to find that the State has failed to produce the testimony of two witnesses or that which is equivalent thereto establishing the guilt of Joseph Taborsky, or of Arthur Culombe, for that matter, then you shall not convict him of first degree murder, which is punishable by death. If you find that the State has produced the testimony of but a single witness to establish the guilt of the accused, you shall not convict them of the crime of murder in the first degree, regardless of how positive and however credible that witness may be. And if you were to find that there is no evidence linking the accused to the homicides outside of their confessions, then you cannot convict them of any crime punishable by death, because a confession cannot be regarder as the equivalent of direct testimony. A confession or admission is not equal to one witness, nor does it have the value of one witness, since such confession is not direct testimony, but only circumstantial evidence of the truth of the facts contained therein, although under the circumstances of a particular case, that may be sufficient evidence of that fact.

If two or more persons participate in a crime, they are equally responsible although it was the immediate act of

one only which actually brought the crime about. The participation means not only actively sharing in its final commission, but in doing anything to aid, to assist, to inspire or to encourage the conduct which caused it. For example, if two automobiles are racing on the highway, each encouraging and inspiring the other to that act, and one driver causes the death of a person under such circumstances that he is guilty of a crime, the fact this his car alone struck that person would not take the responsibility for the commission of the crime from the other driver, but each would be equally guilty.

Now, in these cases you will find in each case that there is a second count. In the case of Arthur Culombe, in the first count he is charged with shooting and killing Edward J. Kurplewski, and my recollection is that he was the owner of the gasoline station, and my recollection is that the evidence indicates that he was shot by the accused Arthur Culombe. Of course, if there is any question about the correctness of my recollection, yours prevails and not mine. In the second count he is charged with murder in the first degree for having murdered one Daniel J. Janowski, and that said murder was perpetrated in a robbery. My recollection is that the evidence is - it is for you to determine what it shows - that Daniel J. Janowski was killed by the accused Joseph L. Taborsky in the perpetration of a robbery.

If you find it to be true that the State has proven that the accused Arthur Culombe and the accused Joseph L. Taborsky were committing the crime of robbery at the time and place named in the indictment on the 15th day of December, and that Daniel J. Janowski was, in fact, murdered by Joseph L. Taborsky, you could also find that Arthur Culombe was guilty of murder in the first degree under the second count under our law, and making the changes that are necessary, the reverse situation is true in

the other indictment wherein the jury could find or charge Joseph L. Taborsky with the murder of Daniel J. Janowski and in the second count with the murder of Edward J. Kurpiewski.

Now, we have a statute which provides: "Every person who shall assist, abet, counsel, cause, hire or command another to commit any offense may be prosecuted and punished as if he were the principal offender". If the accused did any one of those things specified in the statute, if in either instance you should so find, in the eyes of the law he is just as guilty of the crime charged as though he had directly committed it or directly participated in its commission.

I want particularly to emphasize to you that the statute does not connect the various things it specifies by the word "and", but instead separates them by the word "or". The accused is guilty of the crime chardeg if he assisted in any way in its commission, or if he abetted it, or counseled it, or caused, or hired, or commanded it to be done. The words of the statute are, I think, clear, except perhaps as regards the word "abet", and there the question is, did he encourage and incite the commission of the crime. To find him guilty you must, however, decide that he was more than inactively present at the commission of the crime, that he passively acquiesced in it, or that he innocently did certain acts which in fact did aid in the commission of the offense. Unless there was a criminality of intent and an unlawful purpose or purposes in common with the actual perpetration of the crime, he is not guilty under the statute I am now talking about. If you find beyond a reasonable doubt that either of these accused or both did any of the things specified in the statute with that criminal and common intent, they are just as much guilty of the crime as though they themselves committed it, and your verdict should be that they are guilty. Of course, if you find that

the State has not proved this to be so beyond a reasonable doubt, then the accused are entitled to a finding of not guilty on the second count in each indictment.

Now, I suppose, ladies and gentlemen, that I might at this juncture take the time to review the evidence which has been produced in this case upon the part of the State to show that the accused are guilty, as charged, in this indictment or in these indictments. Likewise, I might take the time to repeat the claims of the accused that they are innocent of the crimes with which they are charged. You have given careful attention to all the evidence in this case. You have patiently attended to every bit of the evidence produced here. The case has been ably presented on behalf of the State by counsel of experience and training. Likewise, the defendants have been represented by counsel who have been arduous in their efforts to present to you the interests of their clients. Having given careful attention to this evidence, and having listened patiently and attentively to everything that has been said by counsel on their behalf, it is not my purpose at this point to repeat that evidence to you. I am sure you have it all in mind. I am sure that you will consider every bit of this evidence in determining the guilt or innocence of these accused persons.

Now, the State claims, through a chain of circumstances, that the evidence points clearly and irresistibly to the conclusion that the accused murdered the individuals named in the indictments on the night in question. The State further claims that they were at the time committing the crime of robbery, and you will remember the evidence with respect to that.

The accused, on the other hand, have presented the question of mental capacity. Now, the claim of the accused in this case is that when they committed the crime with which they are charged, if you find the state has proven that

they did that, they were mentally incompetent. The law sometimes says "insane", but mentally incompetent in the case of State versus Arthur Culombe and insane in the case of State versus Joseph L. Taborsky.

You no doubt have noted that the State in putting on its evidence in the first instance, offered none to establish the sanity of the accused. The State was under no duty to offer evidence upon the issue of insanity unless and until evidence was offered on behalf of the accused that they were not sane or did not have the mental capacity which the law requires. It might then in rebuttal offer evidence that they were sane and did have mental capacity, as has been done. But because the State might in the first instance in presenting its evidence rest upon the assumption that the accused were sane does not in any way alter the fact that you cannot find either of them guilty unless, upon all the evidence, you are satisfied that they were sane, as I shall later explain the meaning of that word; for the law absolves from criminal responsibility a man whose mental condition does not reach the legal standard of sanity. Your sole question upon this issue is this: Are you satisfied beyond a reasonable doubt that the accused were same when they committed the crime with which they are charged?

To be the subject of punishment, an individual must have a mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequence of the act charged against him, to distinguish between right and wrong, to realize that the act is wrong and criminal, and that the commission of it will justly and properly expose him to penalties. This includes also one who, by reason of disease or abnormality, is for the time being bereft of will power, and for that reason wholly under the dominion of any impulse springing from his diseased or abnormal condition. One who acts upon an irresistible impulse, arising from disease or abnormality, falls within the protection of this definition.

Now, carefully and reasonably considered, ladies and gentleman of the jury, this definition is, I apprehend, concise and clear enough to be of conclusive application to any case where the plea of insanity is interposed as a defense to a charge of crime. But in cases presenting this inquiry, we are not infrequently confronted by a combination of legal and medical standards which perhaps tend to confuse jurors rather that enlighten them. You will observe that there is nothing elastic in the terms which the law employs to define its own test. This legal standard which I have given you, does not bend to any medical view that may be essentially based upon the idea that the legally sane may include persons or classes of persons who are from a medical standpoint not wholly sound in mind. So, in dealing with medical testimony in any such case, while it is, ladies and gentlemen of the jury, of course entitled to the greatest respect and consideration at your hands, you will weight it with a careful regard to the caution I have given you, remembering the clear and distinct test which the law prescribes, and inquiring in any given case whether it is upon that standard, the legal standard, that medical opinion has been given to you, or upon some standard which includes an impaired mental quality which we in law do not recognize as amounting to insanity in the law of criminal procedure.

A word further upon this branch of the case so that I may insure myself against being misunderstood. The definition of insanity which I have given you would include a mind which is either so naturally weak or so impaired by disease or otherwise to make its possessor incapable of distinguishing right from wrong. It would not include a mind which, while weak or incapable in some measure, is still sound enough to know right from wrong and to make the essential choice of courses, is still sound enough to resist an impulse which its possessor knows will result, if yielded to, in exposing him to just and proper punishment for crime.

To return to this definition for a moment then, two or three things are suggested by it as of vital consequence for the jury to consider and carry in mind in applying it. You will be careful to remember, in the first place, that a man of merely dull or deficient intellect, or abnormal mental quality, is not necessarily irresponsible within the meaning of the law. There are degrees of mental dullness or deficiency or disturbances, and it is only when the condition of mind in any given subject brings him, with references to the particular act involved, within the strict protection of the definition that I have given to you, that he is to be regarded as irresponsible in the eyes of the law.

It is quite important, ladies and gentlemen of the jury, that you recognize the distinction which I have suggested - so important, indeed, that I shall repeat to you once more the accepted definition of that kind or degree of insanity which absolves one so afflicted from punishment for his otherwise criminal acts. Again, then: To be the subject of punishment one must have mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequences of the act charged against him, that the act is wrong and criminal, and that the commission of it will justly and properly expose him to penalties. And he is within the law's protection if his mind is so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act.

So we come to the vital claim made on behalf of these accused - that they did not have the mental capacity which the law says they must have to be legally responsible. The evidence offered here in its support groups itself somewhat naturally under three heads: First, the testimony of ordinary observers - relatives and acquaintances of the accused, who are permitted under our practice to give their opinions to their soundness or unsoundness of mind, based upon such conduct and conversations of theirs as they have ob-

served in their associations with them. In considering the testimony of such witnesses, you must apply certain familiar and pertinent tests; whether any friendship for or interest in the accused has consciously or unconciously affected the witness's judgment is one of them. That is, you must look carefully for the real basis of the opinion. If you are satisfied that it honestly voices the judgment of the witness based on his own observation of the accused, you will, of course, accord it such weight as you think it is entitled to, bearing in mind the extent of his observation, the character of the incidents which he observed, and the witness's apparent degree of intelligence and reliability.

You have heard the testimony of the doctors, whom I may call the expert witnesses, given upon the result of personal examination. As to their personal examination, they examined the defendants both physically and mentally. The opinion of persons learned in medicine, having expert skill, based upon a personal physical examination, is worthy of your consideration. As I understand the testimony of the doctors in this case, their opinions were based not merely upon a physical examination and records which you have before you, but also upon mental examinations, largely upon the answers to questions given by the accused themselves. As a result of these examinations, the doctors offered here have judged the accused as they have testified.

It is but right for me to remind you that you should consider the base of that opinion, and if you find that they based it wholly or partially upon statements made to them by the accused, you should then consider whether the statements from the accused were to be believed or not. You are to remember that the accused were not upon oath when they made these statements to these doctors; that they were about to be put on trial for their lives; that they were vitally interested in the outcome of their cases, and that interest you ought to take into consideration in deciding what credit

you may give to the statements of the accused; that is, to decide whether these doctors received from these accused or from the accused with whom they talked, correct and true statements of fact. If they did, if the facts stated to them were true, then you might consider their opinion as of value. If you come to the conclusion that the answers were made in view of the trial, that you ought not to believe them - that you give them little weight, then you might consider that the opinion of the doctors, based upon such information, was of no great value. That is a matter I wish to ask you should carefully consider when dealing with the opionions of these experts. And you are to remember that these experts are not deciding this question for you. They are merely giving an opinion to you to help you to decide, for it is a question which you must decide and not they. It is for you to determine what weight, if any, you will give to their testimony.

The inquiry as to the mental condition of the accused persons relates to their condition at the time the acts charged were done. The question is whether either or both was not insane and irresponsible therefore at that time. As bearing upon that question, their condition at times prior and subsequent is relevant as tending to throw light upon their condition at the time in question, but such prior or subsequent condition has no other significance. The real question, I repeat, is, what was their condition when the act was committed, if you find that it was committed?

Reference has been made in this case to motive, and in this particular instance, as I recall it, it came up in connection with the testimony of a psychiatrist, but that is only my recollection. Yours will govern, and if it is different, disregard mine. But as I recall the question of motive, one of the psychiatrists, at least, for the accused Joseph L. Taborsky, testified that the motive of his actions was killing in itself, and evidence was introduced to support that

view, as I recall it. Of course, again your recollection is the one that governs. And the State introduced evidence, as I recall it, that the motive for the acts complained of here was not the killing but robbery, and that the killing was for another purpose, namely, to prevent identification and probable prosecution.

It is not necessary for the State to prove what reasons an accused has for committing a crime or what motivated him in doing it. Recognizing the fact that crimes are generally committed from some motive, evidence tending to show the existence of a motive is admissible and often is strong evidence tending to prove the guilt of an accused person if it appears that he has a motive. In the same manner, in any case where there appears no adequate motive on the part of a particular accused to commit the crime, that fact tends to raise a reasonable doubt as to the guilt of the accused. Whatever motivates a man, however, rests only in his own mind. No one else can look into his mind and see what is there. Whatever was in his mind must be inferred from his conduct in the light of the surrounding circumstances. A jury is entitled - indeed, is its duty to draw such inferences from a man's conduct as are reasonable inferences. A jury should examine the conduct of an accused in the light of the surrounding circumstances, knowing how the human mind ordinarily operates, and endeavor to determine whether, on all the evidence, it can be reasonably inferred that the accused did have a motive to commit the crime, and what that motive was.

I think that this is as good a time as any to bring to your attention a matter of great importance, and that is this: We are trying two separate cases and they are being tried together, but they must be judged by you separately. You will recall that in some instances evidence was admitted in the case of State vs. Arthur Culombe and striken out in the case of Joseph L. Taborsky and you were instructed

that you were to disregard it entirely in the case of Joseph L. Taborsky, by me, and it is your duty to disregard it in that case. The same thing applies to certain exhibits, and you will note that the exhibits marked by number, and the case of Joseph L. Taborsky is No 21,665, and you should not consider any evidence - any exhibits that are marked in the case of State vs. Arthur Culombe, which is No 21,666. Those exhibits which are admitted in that case only are to be considered only in that case. You will have the indictments in each case, and on the top of each case is the number of the case, so you needn't try to remember it. While it is a difficult thing to do, you must do it. It is your obligation, and you can do it. You must decide the guilt or innocence of Arthur Culombe solely upon the evidence which is admitted in this case. You must decide the innocence or the guilt of Joseph L. Taborsky solely on the testimony and exhibits that were admitted in his case, and you must not allow the evidence to intermingle. It is a difficult task, but it is one that I am quite sure that you can do when you understand clearly that you must.

There is but one other thing I would like to say. In any instance during the trial when there has been a question asked and an objection made, and I sustained the objection, you are to treat that question as if it had not been asked at all. In any instance where a question has been asked and the answer given and objection made and I have sustained the objection and stricken out the answer, you are to disregard that in its entirety. At any time during the trial, upon motion of counsel, if I have stricken any evidence from the record, that means that you are not to consider the evidence so stricken. In most instances I think that I called it to your attention, but I am bringing it to your attention again in order that I may recall it to your mind.

You will bear in mind that the indictments charges the accused with murder in the first degree, but the statute

provides that the jury before which any person is indicted for murder in the first degree may find him guilty of homicide in a lesser degree than that charged. This does not mean that if the facts found by the jury to have been proven make it a case of murder in the first degree, that the jury may render a verdict of murder of a lesser degree of homicide simply because they desire to do so. The jury is bound, under oath, to render a verdict in accordance with the evidence, and if the evidence which is believed by the jury makes out a case of a certain degree of homicide the jury must render a verdict of homicide in that degree and not in a lesser degree.

What the statute means is simply this: If on an indictment such as the ones before you, the facts so proven do not justify a verdict of guilty of murder in the first degree, but do justify a conviction of homicide in a lesser degree, the jury may and should bring in a verdict of guilty in that degree of homicide which is justified under the evidence. The greater offense includes the lesser. And to avoid needless expense or delay of a further trial, or trial upon a new indictment, the jury may determine the case under the original charge by finding the accused guilty of the lesser offense, where such a conviction is warranted and is the only one warranted upon the evidence. As I have previously said to you, if you entertain a reasonable doubt as between the greater and the lesser of the two crimes, then your verdict should be for the lesser of the two.

The statute governing murder provides in part as follows: "The jury before which any person indicted for murder shall be tried may find him guilty of homicide in a less degree than that charged." The law further provides that the Court shall submit the facts to the jury without directing how to find their verdict.

Anoth section in our law now provides that any person who shall commit murder in the first degree shall suffer

death, unless the jury shall, by its verdict, and as a part thereof, and upon and after a consideration of all the evidence, recommend imprisionment in the State Prison for life, in which case the sentence of the Court shall be imprisonment for life without benefit of release. And that means without benefit of securing a pardon or parole. So if you come to the conclusion that the accused are guilty of murder in the first degree under this indictment, then your verdict will be murder in the first degree. If you desire to recommend that they or either one of them shall be imprisoned for life, you must then say, "Murder in the first degree with the recommendation that the accused be imprisoned for life." The statutory punishment for first degree murder is death, subject only to the condition that the jury, in its absolute discretion, chooses to recommend imprisonment for life. Such a recommendation, however, shall not be made except upon and after a consideration of all the evidence, and by incorporation the recommendation in your verdict of guilty. The same evidence which has been accepted for the purpose of proving the guilt or innocence of the defendant, under these rules of law which I have given to you, may be considered and accepted by you not only for the purpose of determining the guilt or innocence of the defendents, but in the case of a conviction of murder in the first degree the same evidence may be used in determing whether or not you will make the recommendation that the accused be imprisoned for life.

If the State has proved beyond a reasonable doubt that the accused killed the persons named in these indictments, unlawfully, with malice, and while in the perpetration of a robbery, then your verdict must be guilty of murder in the first degree and your foreman should so say. If you decide that he or either of them is guilty of murder in the first degree, and if and upon and after a consideration of all the evidence you desire to recommend imprisonment in the State Prison for life, your verdict should be "Murder in the

first degree with the recommendation that he - or they - be imprisoned in the State Prision for life."

If the State has proved that he or they killed the persons named in the indictment, unlawfully, with malice, but has failed to proved that the killings were done while in the perpetration of a robbery, then your verdicts should be murder in the second degree.

If the State has proved that the accused killed the persons named in the indictment, unlawfully, without malice, then your verdict should be manslaughter.

And if you find that despite what the State may have proved, that the accused do not have the mental capacity, that they are insane within the definition that I have given to you, then your foreman should state and you should find that they are not guilty on the ground of insanity.

Finaly, if the State has failed to prove either murder in any degree, or manslaughter, under this indictment, then your verdict must be not guilty.

To support a verdict, it must be unanimous. This does not mean that each juror should pursue his own deliberation and judgment with no regard for the arguments and conclusions of his fellows, or that having reached a conclusion, he should obstinately adhere to it without a conscientious effort to test its validity by other views entertained by other jurors on the jury, equally wise and justly resolved to do their duty.

The State does not desire the conviction of innocent persons or of any person whose guilt, upon the evidence, there is a reasonable doubt. The State is as much concerned in having an innocent person acquitted as having a guilty person punished. But for the safety and well being of

society the State is concerned in securing the conviction of persons who have been proven by the evidence, beyond a reasonable doubt, to be guilty of committing some one of the crimes charged within these indictments. It is the sworn duty of courts and jurrors to safeguard the rights of persons charged with crime by respecting the presumption of innocence which the law imputes to every person so charged. But the law is made to protect society and innocent persons, and not to protect the guilty ones. If and when this presumption of innocence has been overcome or removed by evidence clearly demonstrating beyond a reasonable doubt that an accused person is guilty of the crime charged, then it is the sworn duty of the jury to enforce the law which is made for the protection of life, society and property, and to render such a verdict as the evidence warrants.

When you retire to the jury room you will have with you the indictments in these cases. You will also have the exhibits which have been introduced in evidence. You will choose a foreman. As I have said, your verdict in these cases must be unanimous. When you have agreed upon verdicts you should make that fact known to the officer in charge by knocking upon the door leading to the jury room, after which you will be permitted to return to the courtroom to announce the results of your deliberations. I want to say to you that there will be no written verdict. Your foreman will stand and announce the verdict that you have agreed upon, orally, and we will proceed from there.

Now, I think, ladies and gentlemen, this rounds out the full measure of my duty to you. I need not dwell upon the gravity of your office, the serious character of the responsibility which the law imposes upon you. You are sworn to act fearlessly and faithfully. You will leave sympathy and sentiment, prejudice and bias behind you when you enter your room for your deliberations. These elements are more subtle in their operation that we perhaps realize. They

sometimes creep unnoticed into a fair mind and intrude their influence when we least suspect their presence. You will guard against them here as you will guard against any other improper consideration which may divert you from a careful, dispassionate investigation of the evidence before you and a verdict based honestly upon your conclusions, letting your verdict, whatever it may be, reflect your sound, sober, honest judgment, unwraped by any consideration which your oath as jurors will not justify and approve.

You may now retire to the juryroom and the alternates may report to the alternates' room temporarily.

(The jury and alternates retire at 4:35 P.M.)

JUNE 27th, 1957, 11:00 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

THE COURT: May I have the jury, Sheriff?

(Jury present)

THE COURT: Ladies and gentlemen of the jury, because the hour is now eleven o'clock I thought that I should send for you and ask you whether or not you want to continue your deliberations further tonight or you perfer to be excused until tomorrow morning. Would you prefer to stay and continue your deliberations now for a little while, or would you rather be excused at this time until tomorrow morning?

FOREMAN ROGER C. R. MILLER: I think that we would prefer to stay.

THE COURT: Very well, you may be excused, and when you are ready you will notify the sheriff.

(The jury retired at 11:02 P.M. and returned at 11:25 P.M. with a verdict of "guilty as charged" on the first and second counts in both indictments. Upon motion of Mr. McDonough, counsel for the accused Culombe, the jury was polled. At the direction of the Court the jury was also polled in the case of State vs. Taborsky. The following then occurred):

THE COURT: The verdicts are accepted. You may record them.

(The verdicts were again read by Assistant Clerk DiCorleto).

MR. BILL: If the Court pleases, I move for sentence in the case of Arthur Culombe.

THE COURT: Mr. Sheriff, make pronouncement of silence while sentence of death is pronounced against the prisoner at the bar.

THE SHERIFF: Everyone rise, please. Oyez, Oyez, Oyez. All persons before this Honorable Superior Court now in session are enjoined to silence upon pain of imprisonment while sentence of death is pronounced against the prisoner at the bar.

THE COURT: Mr. Sheriff, have the prisoner, Arthur Culombe, at the bar to receive his sentence. The sentence of this Court is that you, Arthur Culombe, are hereby remanded to the custody of the sheriff of this county to be conveyed by him or other proper authority within the next twenty days to the Connecticut State Prision at Wethersfield, where you shall thereafter be safely kept until the

16th day of December, 1957, whereupon the punishment of death shall be inflicted upon you, the execution of this sentence to be subject to and in accordance with the provisions of the statutes of this State.

You may escort him from the courtroom.

Mr. Sheriff, have the prisoner, Joseph L. Taborsky, at the bar to receive his sentence.

The sentence of this Court is that you, Joseph L. Taborsky, are hereby remanded to the custody of the sheriff of this county to be conveyed by him or other proper authority within the next twenty days to the Connecticut State Prison at Wethersfield, where you shall thereafter be safely kept until the 16th day of December, 1957, whereupon the punishment of death shall be inflicted upon you, the execution of this sentence to be subject to and in accordance with the provisions of the statutes of this State.

You may escort the accused from the courtroom.

THE ACCUSED TABORSKY: How about the second count?

THE COURT: You have been sentenced, Mr. Taborsky.

THE ACCUSED TABORSKY: I didn't want you to miss anything.

THE COURT: Thank you. Ladies and gentlemen of the jury, I want to tell you that the Commonwealth and the State are deeply indebted to you for the faithful and careful and industrious manner in which you have discharged your service as the jury in this case, and I am quite sure that the satisfaction of having done your duty conscientiously and well is one consolation that you will have forever. On a

more personal note I would like to ask each of you whether or not you have transportation to your homes this evening? Are there any of you who do not? Again the thanks of the State and the thanks of the Court to you for this service so performed. You may be excused, ladies and gentlemen, and when I say excused, I mean discharged. Sheriff, you may adjourn court until tomorrow morning at ten o'clock.

(Court adjourned)